

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

WALMART INITIATIVE PETITION

Summary Statement:

On January 5, 2011 the Planning Commission reviewed and unanimously approved associated entitlements, and certified the Environmental Impact Report, for development of a 246,034 square foot retail center, the commercial anchor of which is a proposed Walmart Super Center store. The project site is generally located at the northeast corner of Dale Evans Parkway and Bass Hill Road. On January 11, 2011, an appeal of the Planning Commission's decision was filed by Briggs Law Firm on behalf of CREED 21. The appeal was general and unspecific in nature but, nevertheless, requested that the Town Council overturn the Planning Commission's decision and deny the project. Although the Planning Commission had unanimously approved the project's entitlements, including certifying the environmental impact report, the project applicant, on January 25, 2011, elected to formally withdraw from the Town its applications to develop the Super Center project. Also on January 25, 2011, Walmart representatives submitted to the Town Clerk of the Town of Apple Valley a ballot initiative on its behalf.

The action taken to withdraw its application made moot the Town Council's responsibility to hear the appeal lodged by Briggs Law Firm and generated public comments and public records requests from citizens opposed to the Walmart Super Center. It is fair to say that the primary theme of those opposing the Walmart Super Center project centers on their contention that the
(Continued on next page)

Recommended Action:

That the Town Council introduce Ordinance No. 420 to approve project as represented in the initiative, without alteration due to the following reasons:

- Staff originally recommended approval of the project to the Planning Commission;
- On January 5, 2011, the Planning Commission unanimously certified the Environmental Impact Report and approved the entitlements for the project;
- At the December 15, 2010 and January 5, 2011 public hearings before the Planning Commission, there was no one present who spoke in opposition to the project; and,
- The cost of a special election will range from \$175,000 - \$185,000.

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

Town Manager Approval: _____ **Budgeted Item** Yes No N/A

Walmart-sponsored ballot initiative process is an “end run” around the Town Development Code, General Plan and past practices relating to the manner in which the Town reviews and approves development projects. In submitting the ballot initiative to the Town Clerk, Walmart represented that the project described in the proposed initiative is the same project that was approved by the Planning Commission, but for the initiative’s characterization of the project as a specific plan. The notice of intention and the title and summary of the proposed measure was published in the Apple Valley News on February 11, 2011. Signatures were collected by the applicant and submitted to the County Registrar of Voters on March 7, 2011.

On April 14, 2011, the County Registrar of voters completed the verification of signatures and determined that the petition contained a sufficient number of valid signatures, collected and submitted by Walmart, from registered voters in the Town of Apple Valley. At the March 22, 2011 Town Council meeting, staff and the Town Attorney presented findings to the Town Council that the initiative complies with the Town General Plan and Development Code and that the initiative is in full compliance with the entitlements approved by the Planning Commission and the project Environmental Impact Report.

In accordance with Election Code Sections 9214-9215, once the petition is qualified, the Town Council must either:

- Adopt the project without alteration;
- Submit the petition to the voters without alteration; or,
- Refer the petition to any Town department for their report on the fiscal impacts, General Plan consistency various land use issues, and “any other matters” as described in Election Code Section 9212.

If the Town Council decides to refer the petition for a report, the report must be presented no later than 30 days after the elections official certifies the sufficiency of the petition. The statutory procedures as described in Election Code Sections 9200-9226 is attached to this report for your review.

Based upon the foregoing, staff recommends adoption of the Form Motion.

- Attachments:
1. Certification of Initiative
 2. Election Code Sections 9200-9226
 3. Ordinance No. 420

REGISTRAR OF VOTERS

COUNTY OF SAN BERNARDINO



777 East Rialto Avenue • San Bernardino, CA 92415-0770 • (909) 387-8300
Fax (909) 387-2022

Michael J. Scarpello
Registrar of Voters

April 13, 2011

La Vonda M. Pearson, CMC
Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307

Re: Proposed Specific Plan

Dear Ms. Pearson,

On March 7, 2011, the Registrar of Voters' office received the above named petition from your office.

We have examined the petition as requested by you, the Town Clerk for the Town of Apple Valley. As a result of such examination, we report the following:

Raw count	8,275
Signatures verified	6,556
Signatures found valid	5,016
Signatures not found valid	1,540

Sincerely,

MICHAEL J. SCARPELLO
Registrar of Voters

Melissa Eickman
Elections Technician

MJS:me

GREGORY C. DEVEREAUX
Chief Executive Officer

Board of Supervisors

BRAD MITZELFELT, Vice Chair.....	First District	NEIL DERRY.....	Third District
JANICE RUTHERFORD.....	Second District	GARY C. OVITT.....	Fourth District
JOSIE GONZALES, Chair.....	Fifth District		

Attachment No. 2
Election Code Sections 9200-9226

WAIS Document Retrieval

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CALIFORNIA CODES
ELECTIONS CODE
SECTION 9200-9226

9200. Ordinances may be enacted by and for any incorporated city pursuant to this article.

9201. Any proposed ordinance may be submitted to the legislative body of the city by a petition filed with the **elections** official of the legislative body, in the manner hereinafter prescribed, after being signed by not less than the number of voters specified in this article. The petition may be in separate sections, providing that the petition complies with this article. The first page of each section shall contain the title of the petition and the text of the measure. The petition sections shall be designated in the manner set forth in Section 9020.

9202. (a) Before circulating an initiative petition in any city, the proponents of the matter shall file with the **elections** official a notice of intention to do so, which shall be accompanied by the written text of the initiative and may be accompanied by a written statement not in excess of 500 words, setting forth the reasons for the proposed petition. The notice shall be signed by at least one, but not more than three, proponents and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of ____ for the purpose of _____. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

(b) Any person filing a notice of intent with the **elections** official shall pay a fee to be established by the legislative body not to exceed two hundred dollars (\$200) to be refunded to the filer if, within one year of the date of filing the notice of intent, the **elections** official certifies the sufficiency of the petition.

9203. (a) Any person who is interested in any proposed measure shall file a copy of the proposed measure with the **elections** official with a request that a ballot title and summary be prepared. This request shall be accompanied by the address of the person proposing the measure. The **elections** official shall immediately transmit a copy of the proposed measure to the city attorney. Within 15 days after the proposed measure is filed, the city attorney shall provide and return to the city **elections** official a ballot title for and summary of the proposed measure. The ballot title may differ from any other title of the proposed measure and shall express in 500 words or less the purpose of the proposed measure. In providing the ballot title, the city attorney shall give a true and impartial statement of the

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purpose of the proposed measure in such language that the ballot title shall neither be an argument, nor be likely to create prejudice, for or against the proposed measure.

(b) The elections official shall furnish a copy of the ballot title and summary to the person filing the proposed measure. The person proposing the measure shall, prior to its circulation, place upon each section of the petition, above the text of the proposed measure and across the top of each page of the petition on which signatures are to appear, in roman boldface type not smaller than 12 point, the ballot title prepared by the city attorney. The text of the measure shall be printed in type not smaller than 8 point.

The heading of the proposed measure shall be in substantially the following form:

Initiative Measure to be Submitted Directly to the Voters

The city attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the city attorney. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

9204. Any elector of the city may seek a writ of mandate requiring the ballot title or summary prepared by the city attorney to be amended. The court shall expedite hearing on the writ. A peremptory writ of mandate shall be issued only upon clear and convincing proof that the ballot title or summary is false, misleading, or inconsistent with the requirements of Section 9203.

9205. A notice of intention and the title and summary of the proposed measure shall be published or posted or both as follows:

(a) If there is a newspaper of general circulation, as described in Chapter 1 (commencing with Section 6000) of Division 7 of Title 1 of the Government Code, adjudicated as such, the notice, title, and summary shall be published therein at least once.

(b) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, the notice, title, and summary shall be published at least once, in a newspaper circulated within the city and adjudicated as being of general circulation within the county in which the city is located and the notice, title, and summary shall be posted in three (3) public places within the city, which public places shall be those utilized for the purpose of posting ordinances as required in Section 36933 of the Government Code.

(c) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, and there is no newspaper of general circulation adjudicated as such within the county, circulated within the city, then the notice, title, and summary shall be posted in the manner described in subdivision (b).

9206. Within 10 days after the date of publication or posting, or both, of the notice of intention and title and summary, the proponents shall file a copy of the notice and title and summary as published or posted together with an affidavit made by a representative of the newspaper in which the notice was published or,

if the notice was posted, by a voter of the city, certifying to the fact of publication or posting.

If the notice and title and summary are both published and posted pursuant to subdivision (b) of Section 9205, the proponents shall file affidavits as required by this section made by a representative of the newspaper in which the notice was published certifying to the fact that the notice was published and by a voter of the city certifying to the fact that the notice was posted.

These affidavits, together with a copy of the notice of intention and title and summary, shall be filed with the **elections** official of the legislative body of the city in his or her office during normal office hours as posted.

9207. The proponents may commence to circulate the petitions among the voters of the city for signatures by any registered voter of the city after publication or posting, or both, as required by Section 9205, of the title and summary prepared by the city attorney. Each section of the petition shall bear a copy of the notice of intention and the title and summary prepared by the city attorney.

9208. Signatures upon petitions and sections of petitions shall be secured, and the petition, together with all sections of the petition, shall be filed within 180 days from the date of receipt of the title and summary, or after termination of any action for a writ of mandate pursuant to Section 9204, and, if applicable, after receipt of an amended title or summary or both, whichever occurs later. Petitions and sections thereof shall be filed in the office of the **elections** official during normal office hours as posted. If the petitions are not filed within the time permitted by this section, the petitions shall be void for all purposes.

9209. Each section shall have attached thereto the declaration of the person soliciting the signatures. This declaration shall be substantially in the same form as set forth in Section 9022, except that the declaration shall declare that the circulator is a voter or is qualified to register as a voter of the city, and shall state his or her residence address at the time of the execution of the declaration.

9210. The petition shall be filed by the proponents or by any person or persons authorized in writing by the proponents. All sections of the petition shall be filed at one time. Once filed, no petition section shall be amended except by order of a court of competent jurisdiction.

When the petition is presented for filing, the **elections** official shall do all of the following:

(a) Ascertain the number of registered voters of the city last reported by the county **elections** official to the Secretary of State pursuant to Section 2187 effective at the time the notice specified in Section 9202 was published.

(b) Determine the total number of signatures affixed to the petition. If, from this examination, the **elections** official

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determines that the number of signatures, prima facie, equals or is in excess of the minimum number of signatures required, he or she shall accept the petition for filing. The petition shall be deemed as filed on that date. Any petition not accepted for filing shall be returned to the proponents.

9211. After the petition has been filed, as herein provided, the **elections** official shall examine the petition in the same manner as are county petitions in accordance with Sections 9114 and 9115, except that for the purposes of this section, references to the board of supervisors shall be treated as references to the legislative body of the city.

9212. (a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 9214, or Section 9215, the legislative body may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:

- (1) Its fiscal impact.
 - (2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.
 - (3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.
 - (4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.
 - (5) Its impact on the community's ability to attract and retain business and employment.
 - (6) Its impact on the uses of vacant parcels of land.
 - (7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
 - (8) Any other matters the legislative body requests to be in the report.
- (b) The report shall be presented to the legislative body within the time prescribed by the legislative body, but no later than 30 days after the **elections** official certifies to the legislative body the sufficiency of the petition.

9213. On or before April 1 of each odd-numbered year, the **elections** official of each legislative body shall file a report with the Secretary of State containing the following information:

- (a) The number of municipal initiative petitions circulated during the preceding two calendar years which did not qualify for the ballot, and the number of these proposed initiatives for which reports were prepared pursuant to Section 9212.
- (b) With respect to municipal initiative measures that qualified

for the ballot in the preceding two calendar years, the number that were approved by the voters, and the number of these ballot measures for which reports were prepared pursuant to Section 9212.

(c) With respect to municipal initiative measures that qualified for the ballot in the preceding two calendar years, the number that were not approved by the voters, and the number of these ballot measures for which reports were prepared pursuant to Section 9212.

9214. If the initiative petition is signed by not less than 15 percent of the voters of the city according to the last report of registration by the county **elections** official to the Secretary of State pursuant to Section 2187, effective at the time the notice specified in Section 9202 was published, or, in a city with 1,000 or less registered voters, by 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the legislative body shall do one of the following:

(a) Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.

(b) Immediately order a special election, to be held pursuant to subdivision (a) of Section 1405, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.

(c) Order a report pursuant to Section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

9215. If the initiative petition is signed by not less than 10 percent of the voters of the city, according to the last report of registration by the county **elections** official to the Secretary of State pursuant to Section 2187, effective at the time the notice specified in Section 9202 was published, or, in a city with 1,000 or less registered voters, by 25 percent of the voters or 100 voters of the city, whichever is the lesser number, the legislative body shall do one of the following:

(a) Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.

(b) Submit the ordinance, without alteration, to the voters pursuant to subdivision (b) of Section 1405, unless the ordinance petitioned for is required to be, or for some reason is, submitted to the voters at a special election pursuant to subdivision (a) of Section 1405.

(c) Order a report pursuant to Section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

9216. In cities having a mayor, or like officer, with the veto power, when the passage of an ordinance petitioned for by the voters is vetoed, the failure of the legislative body to pass the ordinance

over the veto shall be deemed a refusal of the legislative body to pass the ordinance within the meaning of this article.

9217. If a majority of the voters voting on a proposed ordinance vote in its favor, the ordinance shall become a valid and binding ordinance of the city. The ordinance shall be considered as adopted upon the date that the vote is declared by the legislative body, and shall go into effect 10 days after that date. No ordinance that is either proposed by initiative petition and adopted by the vote of the legislative body of the city without submission to the voters, or adopted by the voters, shall be repealed or amended except by a vote of the people, unless provision is otherwise made in the original ordinance.

9218. Any number of proposed ordinances may be voted upon at the same election, but the same subject matter shall not be voted upon twice within any 12-month period at a special election under the provisions of this article.

9221. If the provisions of two or more ordinances adopted at the same election conflict, the ordinance receiving the highest number of affirmative votes shall control.

9222. The legislative body of the city may submit to the voters, without a petition therefor, a proposition for the repeal, amendment, or enactment of any ordinance, to be voted upon at any succeeding regular or special city election, and if the proposition submitted receives a majority of the votes cast on it at the election, the ordinance shall be repealed, amended, or enacted accordingly. A proposition may be submitted, or a special election may be called for the purpose of voting on a proposition, by ordinance or resolution. The election shall be held not less than 88 days after the date of the order of election.

9223. Whenever any ordinance or measure is required by this article to be submitted to the voters of a city at any election, the elections official of the legislative body shall cause the ordinance or measure to be printed. A copy of the ordinance or measure shall be made available to any voter upon request.

9224. The enacting clause of an ordinance submitted to the voters of a city shall be substantially in the following form:
"The people of the City of _____ do ordain as follows:".

9226. This article does not apply to any statewide initiative measure.

ORDINANCE NO. 420

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, ADOPTING THE WAL-MART INITIATIVE MEASURE RELATING TO THE ESTABLISHMENT OF THE APPLE VALLEY COMMERCIAL SPECIFIC PLAN

WHEREAS, on January 5, 2011, the Planning Commission unanimously approved associated entitlements and certified the Environmental Impact Report for development of a 246,034 square foot retail center, the commercial anchor of which is a Wal-Mart Supercenter store (the "Project"); and

WHEREAS, on January 25, 2011, the applications to develop the Project were withdrawn by the applicant and a ballot initiative measure was submitted to the Town Clerk of the Town of Apple Valley by a citizen of the Town of Apple Valley; and

WHEREAS, the ballot initiative measure entitled:

"AN INITIATIVE MEASURE PROPOSING THE ADOPTION OF A SPECIFIC PLAN CONCERNING A PROPOSED COMMERCIAL DEVELOPMENT IN THE TOWN OF APPLE VALLEY LOCATED ON APPROXIMATELY 30 ACRES OF UNDEVELOPED PROPERTY NORTH OF HAPPY TRAILS HIGHWAY (SR-18), AT THE SOUTHEASTERLY CORNER OF THE INTERSECTION OF DALE EVANS PARKWAY AND THUNDERBIRD ROAD"

would require that the Town of Apple Valley adopt the Apple Valley Commercial Specific Plan whose boundaries are conterminous with the existing Project site (the "Wal-Mart Initiative"); and

WHEREAS, the Wal-Mart Initiative proponents properly filed a notice of intention to circulate a petition with the Town Clerk and requested that the Town prepare a title and summary of the proposed Initiative; and

WHEREAS, the Town Attorney prepared the title and summary for the proposed Wal-Mart Initiative and the Initiative proponents caused the notice of intention and the title and summary of the proposed Initiative to be published in the Apple Valley News on February 11, 2011; and

WHEREAS, the Initiative proponents properly collected signatures and filed these signatures with the Town Clerk; and

WHEREAS, the Town Clerk submitted the signatures to the San Bernardino County Registrar of Voters, who verified on April 14, 2011 that the Initiative proponents obtained a sufficient number of signatures as required by law to allow the Initiative to be submitted to the electorate; and

WHEREAS, Town staff and the Town Attorney have analyzed the language of the Wal-Mart Initiative and determined that the proposed Apple Valley Commercial Specific Plan: (i) is consistent with the Town of Apple Valley General Plan adopted August 11, 2009; (ii) incorporates all requirements of the mitigation and monitoring program of the Project Environmental Impact Report; (iii) imposes specific use standards and guidelines that are substantially similar and consistent with the Title 9 of the Town of Apple Valley Municipal Code

(Development Code); and (iv) incorporates all conditions of Project approval; and

WHEREAS, the Initiative proponents completed all necessary prerequisite steps to place the Wal-Mart Initiative on the ballot, including properly circulating a petition; and

WHEREAS, the Town Council is obligated by law to place the Wal-Mart Initiative on the ballot since it complies with all prerequisites required of ballot initiatives, or in the alternative and in accord with California Elections Code sections 9214 and 9215, the Council may choose to adopt the Wal-Mart Initiative in its entirety, without alteration; and

WHEREAS, the Town Council desires to enact this Ordinance to adopt the Wal-Mart Initiative in its entirety, without alteration; and

WHEREAS, the Town Council believes that it would be in the best interest of the people of the Town of Apple Valley to adopt the Wal-Mart Initiative.

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

Section 1. Recitals. The foregoing recitals are adopted as findings of the Town Council as though fully set forth herein.

Section 2. General Plan Consistency. In consideration of the evidence received at the public hearing for the Project before the Planning Commission, the lack of any opposition to the Project at either of the Planning Commission public hearings, the Planning Commission's unanimous approval of the Project, and for the reasons discussed by the Council, the Town Council of the Town of Apple Valley, California, finds that the Apple Valley Commercial Specific Plan is consistent with the Goals and Policies of the Town of Apple Valley General Plan.

Section 3. Incorporation of Specific Plan Findings. The Town Council hereby incorporates the findings and declaration of purpose contained in Section 1 of the Wal-Mart Initiative as though fully set forth herein.

Section 4. Adoption of Specific Plan. The Town Council hereby adopts the Wal-Mart Initiative as Chapter 9.40 of the Town of Apple Valley Municipal Code, without alteration. Chapter 9.40, in accord with Section 2 of the Wal-Mart Initiative, shall be entitled "Apple Valley Commercial Specific Plan." Chapter 9.40 shall include all provisions contained in Section 2 of the Wal-Mart Initiative, which is attached hereto and incorporated herein by this reference as **Exhibit A.**

Section 5. Amendment of General Plan, Development Code. Notwithstanding Chapters 9.02 and 9.06 of the Town of Apple Valley Municipal Code, the Town Council hereby authorizes the Town Planning Division to amend the Land Use Map designation of the parcel, located approximately 150 feet south of Thunderbird Road, on the east side of Dale Evans Parkway (APN 3112-251-24) from General Commercial (C-G) to Specific Plan (SP); and (ii) to amend the zoning designation of the parcel, located at approximately 150 feet south of Thunderbird Road, on the east side of Dale Evans Parkway (APN 3112-251-24) from General Commercial (C-G) to Specific Plan (SP).

Section 6. Notice of Adoption. The Town Clerk of the Town of Apple Valley shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under Section 36933 of the Government Code of the State of California.

Section 7. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 8. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Town Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

Adopted by the Town Council and signed by the Mayor and attested to by the Town Clerk this _____ day of May 2011.

Scott Nassif, Mayor

ATTEST:

Ms. La Vonda M-Pearson, Town Clerk

Approved as to form:

Approved as to content:

Mr. John Brown, Town Attorney

Mr. Frank Robinson, Town Manager

Exhibit A – Wal Mart Initiative Measure

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO VOTERS

To the Town Council of the Town of Apple Valley: We the undersigned, registered, qualified voters of Apple Valley, California, hereby propose amendments to the Municipal Code and adoption of a specific plan concerning a proposed commercial development in Apple Valley, and petition the Town Council to submit the same to the voters of Apple Valley for their adoption or rejection at the next succeeding municipal election, or special election for which this measure may qualify, or adopt the measure without alteration, as provided for in the Elections Code.

THE PEOPLE OF THE TOWN OF APPLE VALLEY DO ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS AND DECLARATION OF PURPOSE

- A. The people of Apple Valley want expanded retail shopping opportunities developed on approximately 30 acres of undeveloped property located north of Happy Trails Highway (SR-18), at the southeasterly corner of the intersection of Dale Evans Parkway and Thunderbird Road.
- B. The proposed project will provide many new jobs in the community, broaden the Town's sales tax base, and provide new and modern retail shopping options for the citizens of Apple Valley.
- C. The people of Apple Valley want this new retail shopping center, the new jobs created, and the other public benefits associated with the project as quickly as possible.
- D. However, any development of the property must also be consistent with the Town's General Plan, must pay for adequate infrastructure and public amenities, and mitigate against anticipated environmental impacts.
- E. The Town prepared an Environmental Impact Report in accordance with the California Environmental Quality Act that analyzed the potential environmental impacts of the proposed retail shopping center on the property.
- F. Therefore, the people of the Town of Apple Valley hereby propose this Initiative Measure to:
 - 1) Enact a Specific Plan that is consistent with and in furtherance of the existing General Plan of the Town; and
 - 2) Require any amendment of this Initiative Measure to be approved by the voters except to further the purposes of this Initiative Measure.

SECTION 2. ADOPTION OF THE SPECIFIC PLAN.

Chapter 9.40 of the Municipal Code is hereby added to read:

CHAPTER 9.40. APPLE VALLEY COMMERCIAL SPECIFIC PLAN

SECTION 9.40.010. INTRODUCTION.

A. SPECIFIC PLAN AREA.

The Apple Valley Commercial Specific Plan (Specific Plan) area is an approximately 30.19 acre site located in the Town of Apple Valley ("Town") in San Bernardino County, California, located north of Happy Trails Highway (SR-18), at the southeasterly corner of the intersection of Dale Evans Parkway and Thunderbird Road. The Specific Plan area is presented in Figure 1.

The land to the north of the Specific Plan area has a General Plan Land Use Designation of Estate Residential (R-E) and is zoned Estate Residential (R-E). The land to the south of the Specific Plan area has a General Plan Land Use Designation of Open Space and a zoning designation of Recreation Open Space (OS-R), and is developed with the Civic Center Park and Aquatics Center. The land to the west of the Specific Plan area has a General Plan Land Use

Designation of General Commercial (C-G) and is zoned General Commercial (C-G). The land to the east of the Specific Plan area has a General Plan Land Use Designation of Estate Residential (R-E) and is zoned Estate Residential (R-E). A vacant area of land to the northeast of the Specific Plan Area has a General Plan Land Use Designation of Office-Professional (O-P) and is zoned Office-Professional (O-P).

B. PURPOSE OF THE SPECIFIC PLAN.

A specific plan is a combination policy statement and implementation tool that can be used to address the unique needs of a particular area of a town, city or county. As a result, emphasis is on concrete standards and development criteria for use in the submission and review of subsequent development plans and permits. The California *Government Code* permits the use of specific plans to regulate site development, including permitted uses such as density, building size, and placement. Specific plans also govern the landscaping and roadways, as well as the provision of infrastructure and utilities. Since the development guidelines established in a Specific Plan focus on the unique needs of a specific area, specific plans allow for greater flexibility than is possible with conventional zoning.

The purpose of the Apple Valley Commercial Specific Plan (Specific Plan) is to assist in the development of the site in a manner that will benefit local shoppers, the general public, and the Town. The Specific Plan accomplishes these purposes by providing for the efficient use of land, ensuring compatibility between existing and proposed land uses, and establishing environmental and development standards and procedures to be met in development of the Specific Plan area. The customized development regulations contained in the Specific Plan address the unique characteristics of the site and surrounding properties, as well as the needs of the commercial land uses proposed for the site. These efforts are intended to foster greater economic development and design opportunities than could be achieved through the use of conventional zoning and development standards.

As used herein, the term "developer" shall mean the current fee title holder(s) within the Specific Plan area.

C. SPECIFIC PLAN AREA OBJECTIVES.

The objectives of the Specific Plan are as follows:

- Provide development consistent with the General Plan, land uses, zoning ordinance and in conformance with municipal standards, codes and policies;
- Maximize and broaden the Town's sales tax base by providing local and regional tax-generating uses;
- Provide development that improves and maximizes economic viability of a vacant site by transitioning the Specific Plan area into a productive mix of commercial/retail uses;
- 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 expand and provide new retail options, with updated, modern and energy efficient buildings, in close proximity to local customers by providing daytime and nighttime shopping opportunities in a safe and secure environment;

- Locate a commercial Specific Plan area along a Major Road as identified within the Circulation Element of the General Plan, maximizing access opportunities for the convenience of patrons;
- To provide convenience-oriented retail sale of food, beverage, and related products and convenience-oriented services to the currently underserved area;
- Create additional employment-generating opportunities for the town and surrounding area;
- Provide (where necessary) adequate infrastructure and public amenities.

D. AUTHORITY.

The Specific Plan has been prepared in accordance with *Government Code* Sections 65450 *et seq.* and 66450 *et seq.* and will constitute the zoning for the Specific Plan area. Land use standards and regulations contained within this document shall govern future development within the boundaries of this Specific Plan.

The Specific Plan provides a framework for development of the Specific Plan area. The Specific Plan provides guidance for the review of specific development proposals and is the Town's reference document for determining permitted uses, intensity of use, and development standards and requirements. The Specific Plan defines objectives, as well as regulations and requirements for development of the Specific Plan area.

E. GENERAL REQUIREMENTS.

1. General Plan Consistency.

Implementation of the Specific Plan is intended to carry out the goals and policies contained in the Town of Apple Valley General Plan in an orderly and attractive fashion, and development within the Specific Plan area shall, therefore, be consistent with the provisions of the Apple Valley General Plan.

The Land Use Element of the General Plan currently designates the Specific Plan area as General Commercial (C-G). The C-G land use designation allows a broad range of retail uses, as well as office and service land uses to serve the needs of the Town's residents and businesses, in a shopping center setting. Commercial retail land uses allowed by the Specific Plan are considered to be consistent with the applicable General Plan goals and policies, and will specifically implement the following General Plan goals:

- **Goal 1:** The Town shall respect its desert environment.
 - **Policy 1.A:** The Town will require low water use through drought tolerant and native desert plants for landscaping.
 - **Policy 1.C:** Natural drainage channels shall be designed with soft bottoms whenever possible.
- **Goal 2:** A well planned, orderly development pattern that enhances community values, and assures development of adequate infrastructure.
 - **Policy 2.B:** All new development and redevelopment proposals shall be required to install all required infrastructure, including roadways and utilities, and shall have complied with requirements for public services prior to occupancy of the project.
 - **Policy 2.C:** The Town shall require quality design in all development and redevelopment proposals and shall encourage the enhancement of existing development.

- **Goal 3:** Minimal impact to existing neighborhoods.
 - **Policy 3.B:** Specific Plans shall be required for development proposals that include one or more of the following: a) A combination of residential, recreational, commercial and/or industrial land use designation (except in the Mixed Use land use designation); or b) Variations from development standards in the applicable Zone.
- **Goal 6:** Commercial development shall strengthen the local economy and enhance the quality of life.
 - **Policy 6.A:** Commercial development shall be permitted only in areas with provisions for adequate circulation, utilities, infrastructure and public services.
 - **Program 6.A.1:** Commercial development shall be focused on major roadways, the State Route 18 corridor, the High Desert Corridor, and Interstate 15 as shown on the Land Use Map.
 - **Program 6.A.2** Commercial development projects will be required to extend adequate infrastructure, utilities and public services prior to occupancy.
 - **Policy 6.B:** The Town shall promote commercial and industrial development that are capable of strengthening the local economy and enhancing the quality of life of Town residents.
 - **Program 6.B.1:** The Development Code will maintain development standards and guidelines which encourage creative, high quality design of commercial projects.
- **Goal 8:** Adequate public facilities to meet the needs of the Town's residents, businesses and visitors.
 - **Policy 8.A:** The Town shall coordinate with all public service providers to assure that adequate services are available to meet the demands of growth in Town.

2. Relationship Between Specific Plan Development Standards/Criteria and the Town of Apple Valley Development Code.

Development regulations and requirements contained in this document will supplement or replace those Town Development Code provisions that might otherwise apply to lands within the Specific Plan area. Any regulations or requirements not specifically covered herein shall be subject to the regulations and requirements of the Town Development Code, design guidelines and engineering standards and other applicable regulations, in addition to all applicable local, state and federal ordinances, laws or regulations.

If any provision of the Specific Plan conflicts with the regulations or requirements of the Town Development Code, the provisions of this document shall take precedence. The procedure for administration of the Specific Plan is set forth in Section 9.40.050.

3. Conformance with Building Codes.

All construction within the Specific Plan shall be in compliance with Title 8 of the Apple Valley Municipal Code.

4. Provision of Infrastructure.

Unless otherwise specifically approved as part of this Specific Plan, all off-site improvements under the control of the Town shall be subject to the Town regulations and requirements in effect at the time improvement plans are submitted. Other improvements not under the control of the Town (e.g., electricity, natural gas, telephone) shall be subject to the regulations and requirements of the responsible agency.

To ensure the cost-effective availability of current and adequate infrastructure and services during the development of the Specific Plan area, infrastructure plans may be modified during the engineering or permit submittal process by the Town Public Works Department/Town

5. Severability.

If any term, provision, condition, requirement, or portion thereof of this Specific Plan is for any reason held invalid, unenforceable, or unconstitutional, the remainder of this Specific Plan or the application of such term, provision, condition, requirement, or portion thereof to circumstances other than those in which it is held to be invalid, unenforceable, or unconstitutional, shall not be affected thereby; and each other term, provision, condition, requirement, or portion thereof shall be held valid and enforceable to the fullest extent permitted by law.

6. Costs.

The developer shall pay the costs of any code enforcement activities, including attorney's fees, resulting in the violation of any provisions of the Town Ordinances, including the Specific Plan. The developer shall be responsible for the entire cost to implement the Environmental Standards in accordance with Section 9.40.060 of this Specific Plan.

7. Consent to Hold Harmless.

The developer 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 Specific Plan 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 developer of this obligation under this Section.

8. Fees.

All development under this Specific Plan will be required to pay all applicable fees at the time those applicable fees are due, including, but not limited to Development Traffic Impact Fees, Fire Fees, Drainage and School Impact Fees as established by Town Ordinance No. 294, and Park and Recreation Department Fees under the Quimby Ordinance.

In addition, should the Specific Plan area lie within any additional assessment or benefit district, the developer shall, prior to issuance of a building permit, make application for and pay for the reapportionment of the assessments or pay the unit fees in the benefit district unless said fees are deferred to building permit issuance.

All development under this Specific Plan is required to pay all applicable permit application and review fees, including but not limited to, building permits, grading permits, encroachment permits and other filing fees.

SECTION 9.40.020. EXISTING SETTING.

A. SITE CONDITIONS AND EXISTING LAND USES.

1. Historical and Existing Land Uses.

Historical Land Use.

The Specific Plan area is currently vacant and undeveloped with structures, and is scattered with native vegetation including 22 Joshua Trees. The eastern edge of the original Apple Valley Airport (closed in 1972) was on the northernmost portion of the Specific Plan area.

Existing On-Site General Plan Land Use and Zoning.

The Town of Apple Valley General Plan designated the Specific Plan area as General Commercial (C-G). The C-G land use designation allows a broad range of retail uses, as well as office and service land uses to serve the needs of the Town's residents and businesses, in a shopping center setting. General retail stores, including all types of consumer goods, furniture and appliance sales, auto repair and sales are permitted in this designation. Restaurants, both sit-

down and fast food, gasoline service stations and general office (secondary to retail uses) are also permitted in this designation.

The zoning of the Specific Plan Area is General Commercial (C-G). This zone is intended for the development of a full range of retail stores, offices and personal and business services, including shopping centers along major roadways. Permitted uses include general commercial retail sales, grocery stores, restaurants and convenience stores, along with the sale of alcoholic beverages for off-site consumption. Conditionally permitted uses include minor automotive repair. A Special Use Permit is also required for drive-up or drive-through uses.

Surrounding Land Uses.

The Specific Plan 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 Specific Plan area has approximately 1,850 feet of street frontage along Dale Evans Parkway.

B. EXISTING CIRCULATION.

1. Regional Circulation.

Regional access to the Specific Plan area is provided by the Happy Trails Highway (State Route 18), which connects with the City of Victorville and the Lucerne Valley and Big Bear areas, and is currently a four-lane limited-access roadway that runs in a diagonal alignment (northwest to southeast) in the Specific Plan area vicinity.

2. Local Circulation.

Major roadways in and around the Specific Plan area, in addition to State Route 18, are Dale Evans Parkway and Thunderbird Road.

Dale Evans Parkway is a four-lane, generally north-south arterial roadway which terminates at Happy Trails Highway to the south of the Specific Plan area. To the north of Thunderbird Road, Dale Evans Parkway is a two-lane roadway with a center two-way left-turn lane, which serves residential areas. Dale Evans Parkway is designated as a Major Road within the Town of Apple Valley General Plan Circulation Element, with 104 feet of right-of-way between Happy Trails Highway and Thunderbird Road. It is also designated as a Local Truck Route between Happy Trails Highway and Waalew Road.

Thunderbird Road is an east-west roadway north of the Specific Plan area. It is currently an unimproved two-lane roadway, primarily serving residential areas. It is designated as a Major Road in the Town of Apple Valley General Plan Circulation Element, with 104 feet of right-of-way at buildout. It is also designated as a Local Truck Route between Dale Evans Parkway and Central Road.

3. Public Transit.

The Specific Plan area will include the construction of a bus stop, and will coordinate with local transit providers to ensure transit opportunities are provided to and from the Specific Plan area.

Victor Valley Transit Authority (VVTA) currently provides regular bus service along Happy Trails Highway (SR-18). VVTA's schedule currently indicates a regular stop to the north of the Specific Plan area at the intersection of Dale Evans Parkway and Thunderbird Road, as part of Fixed Route 40, with hourly stops from 6:18 a.m. through 8:18 p.m. Monday to Friday, and at 7:18 a.m. through 7:18 p.m. on Saturday. An additional bus stop is located to the south of the Project site at the intersection of Dale Evans Parkway and Outer Highway 18 as part of Fixed Route 41. This "timepoint," or major bus stop, occurs at hourly intervals between 6:08 a.m. and 8:08 p.m. Monday through Friday, and at 7:08 a.m. through 7:08 p.m. on Saturday. Bus services are not currently available on Sundays.

4. Bicycle Facilities.

Racks for parking and securing bicycles adjacent to Specific Plan area entrances will be provided consistent with Town of Apple Valley requirements, allowing for patrons and employees to bicycle to the Specific Plan and adjacent areas.

C. EXISTING PHYSICAL CONDITIONS.

1. Topography.

The Specific Plan area is located in the Town of Apple Valley. The Specific Plan area is, and has been historically vacant and undeveloped, and contains native desert vegetation. The elevation of the Specific Plan area is approximately 2,900 feet above mean sea level (MSL) and is relatively level, sloping gently to the northeast, with no substantive grade changes.

2. Hydrology.

The topography of the Specific Plan area results in an overland flow with an ultimate discharge onto Dale Evans Parkway. The Specific Plan area also collects approximately 2.60-acres of runoff from a portion of Dale Evans Parkway.

3. Soils.

The soils within the Specific Plan area consist of Quaternary-age alluvium deposits to the maximum explored depth of 51.5 feet below existing ground surface. The alluvial deposits consist of about three to seven feet layers consisting of various mixtures of sand, silt, and clay cemented by calcium carbonate (caliche), underlain by layers of silty sand, sandy silt and sand with gravel, and various amount of caliche.

4. Seismicity.

The Specific Plan area, like most of California, is located within a seismically active area. However, no known active faults have been identified as projecting toward or extending across the Specific Plan area.

5. Hazardous Materials.

The Specific Plan area has been historically vacant and has never been developed with structures. Although the Specific Plan area was formerly part of the Apple Valley Airport, the airport facilities were located to the west and the Specific Plan area remained relatively undisturbed. No hazardous materials have been identified within the Specific Plan area and the overall potential for discovering any hazardous material during development of the Specific Plan area is low.

6. Biological Resources.

The Specific Plan area is located in the Mojave Desert and is not within any waterway. No riparian habitat or federally protected wetland has been identified within or adjacent to the Specific Plan area. Urbanization of the area has precluded any meaningful function of the area as cohesive habitat or as a potential corridor for wildlife movement. Additionally, the Specific Plan area lies within the boundaries of the proposed West Mojave Habitat Conservation Plan (WMHCP). Should the WMHCP be adopted prior to approval of the Specific Plan, any development within the Specific Plan area would be subject to, and will comply with, any applicable WMHCP permitting and/or mitigation fee requirements.

The dominant plant community within the Specific Plan area is Mojave Desert scrub. This community is characterized by widely spaced shrubs separated by bare ground. The most common plant species occurring within this community are bursage (*Ambrosia dumosa*), and cheesebush (*Hymenoclea salsola*). Occasional Joshua trees (*Yucca brevifolia*) also occur within the Specific Plan area. The number of Joshua trees within the Specific Plan area is estimated at 22, which have been surveyed and evaluated consistent with Town requirements.

One special status species, the burrowing owl, is determined to be present within the Specific Plan area. The burrowing owl is the only sensitive wildlife species that would be affected by

implementation of the Specific Plan. At present, at least one owl is considered to be resident within the Specific Plan area, and impacts to the burrowing owl are determined to be potentially significant based on owl displacement that will occur as a result of Specific Plan implementation. Environmental Standards ES 4.8.1 to 4.8.4 will mitigate these potential impacts to the burrowing owl.

D. EXISTING UTILITIES.

1. Water.

The Specific Plan area will receive potable water from the Apple Valley Ranchos Water Company (AVRWC). AVRWC has a water supply network that as of 2005 includes 22 wells with a pumping capacity of approximately 31.7 million gallons per day, 350 miles of pipe and 8.6 million gallons of storage.

The Specific Plan area and the AVRWC service area lie within the jurisdiction of the Mojave Water Agency (MWA). Water producers within the MWA service area, including AVRWC, rely on groundwater extraction from the Mojave River Basin (Basin) as their primary source of water supply. Groundwater resources available to Basin purveyors constitute a portion of regional groundwater allocations that were determined through the Basin's adjudication, which was designed to bring about a Basin-wide balance in water supplies and consumption, and to restore and maintain available groundwater resources. The MWA is the entity charged with implementing Basin adjudication, and to this end, has developed a Basin-wide Regional Water Management Plan. The MWA is responsible for managing groundwater resources in the Basin, and providing alternate water sources to the region as needed. In this latter regard, the MWA is one of 29 State Water Project (SWP) contractors permitted to deliver water from the California Aqueduct. SWP water imported by the MWA is available to Basin water purveyors whose extractions may exceed their adjudicated allowance. All proposed water system improvements will be designed and constructed to the satisfaction of the Town and the Apple Valley Ranchos Water Company.

2. Wastewater.

The Specific Plan area will be provided wastewater service by the Town of Apple Valley Wastewater Division (which is responsible for wastewater collection), and the Victor Valley Wastewater Reclamation Authority (VWVRA), which is responsible for wastewater treatment. Currently, VWVRA's regional treatment plant has the capacity to provide primary, secondary, and tertiary wastewater treatment for approximately 14.5 million gallons per day (MGD) and a planned ultimate expansion capacity of 18 MGD.

3. Solid Waste Disposal.

The Specific Plan area lies within the service area of AVCO Waste Management Company (a Burrtec subsidiary), which provides solid waste disposal services throughout San Bernardino County. Solid waste generated from the Specific Plan area could be disposed of at any of the six regional landfills in the area, although it is anticipated that such waste will be transported to, and disposed of at, the Victorville Regional Sanitary Landfill. The estimated closure date of this landfill is 2059.

4. Natural Gas.

Southwest Gas will provide natural gas service to the Specific Plan area.

5. Electricity.

Southern California Edison will provide electricity service to the Specific Plan area.

6. Telephone and Communications.

Various private services will provide telephone and communication services to the Specific Plan area.

SECTION 9.40.030. LAND USE PLAN.

A. LAND USE CONCEPT.

The overall land use concept for the Specific Plan is to create an integrated retail shopping complex that can take advantage of the Specific Plan area's location along a Major Road. The Specific Plan will improve the aesthetic and commercial landscape of the surrounding area by allowing for the transformation of vacant acreage into an attractive and productive blend of retail and service establishments. Development within the Specific Plan area is intended to function as a single, integrated retail center providing for community oriented uses with a community-wide market base. Figures 2 and 3 illustrate the Conceptual Site Plan for the Specific Plan. As discussed in more detail in Section 9.40.050, any and all subsequent approvals and permits required for development of the Specific Plan shall be ministerial and not appealable.

1. Uses Allowed By Right.

Table 1 establishes the permitted uses for the Apple Valley Commercial Specific Plan area. Ancillary and accessory uses, if proposed, will be reviewed concurrently with any application for development submitted. Ancillary and accessory uses that are not specifically listed as permitted may be approved subject to determination of substantial conformance as set forth in Section 9.40.050.

Table 1 Permitted Uses

Permitted Uses	
	Administration and professional office
	Alcohol sales for offsite consumption (type 20 or 21 license)
	Animal care facility, excluding exterior kennel, pens or runs
	Automobile parts and supply stores
	Automotive services, including minor repairs such as smog check, tune-ups, tires, brakes, batteries, mufflers
	Banks and financial institutions, including walk-up and drive-thru automated teller machines
	Barber and beauty shops
	Catering establishments
	Commercial recreation facilities including health clubs, or indoor uses such as bowling, billiards, or theaters
	Commercial retail uses such as clothing, food, gifts, studios, services and other similar uses*
	Concessionaire, small kiosks not located in a parking lot.
	Convenience stores
	Feed and tack, including the incidental exterior storage of hay, packaged feed and related bulk feed products on site
	Gasoline station and/or carwash
	Hotels and motels

Permitted Uses	
	Medical clinic
	Movie rental operations
	Nurseries/Garden Center, outdoor
	Outdoor display, seasonal merchandise
	Parking lots/structures
	Pawn shops
	Pet shops and salons
	Pet supply shops
	Pharmacies, stand-alone or as part of a larger retail use, including a drive-thru pharmacy*
	Recycling Collection Point less than 500 sq ft
	Restaurants and other eating establishments, including drive-thru establishments*
	Retail sales*
	Reverse vending machines
	Services, such as barber/beauty, repair, laundry
	Signs, on-site advertising
	Spiritualist readings or astrological forecasting
	Studios, such as dance and photo
	Superstore-type uses including general merchandise, grocery, pharmacy and other uses permitted independently in the Specific Plan area*
	Swap meets, indoor
	Thrift or second-hand stores
Video arcade/family fun center	
Vocational and business trade schools (non shop-related)	
Vision and/or hearing services	

Note: *24-hour operations permitted as-of-right. 24-hour operations may be permitted for other uses if the Community Development Director determines such a use substantially conforms with the provisions of the Apple Valley Commercial Specific Plan.

B. SITE DEVELOPMENT STANDARDS.

1. Land and Structure Regulations.

Table 2 establishes the land and structure regulations for the Specific Plan:

Table 2. Land and Structure Regulations

Minimum Lot Area	10,000 square feet
Maximum Building Coverage	None
Maximum Building Area	246,034 square feet
Floor Area Ratio	0.5
Minimum Lot Width	75 feet
Minimum Lot Depth	100 feet
Minimum front setback	a. From local streets: 35 feet b. From major or secondary streets: 45 feet
Minimum rear setback	None, unless the proposed development is located adjacent to a residential use or district, in which case the required minimum setback shall be twenty-five (25) feet.
Minimum side setback	None, unless the proposed development is located adjacent to a residential use or district, in which case the required minimum setback shall be twenty-five (25) feet.
Minimum street side and rear setback	25 feet
Accessory Structures	Allowed.
Outdoor Storage	Allowed.
Storage of Building Materials	Allowed.
Walls or Fences Maximum Height	Within Clear site triangle: 30 inches Solid walls or fences within front or street side setback: 42 inches Open fences within front or street side setback: 72 inches All other locations on site: 144 inches
Maximum Building Height	42 feet
Minimum total landscape area	10%

2. Specific Use Standards and Guidelines.

A. Amusement Devices and Video Arcades.

The following additional standards and guidelines shall apply to amusement devices and video arcades within the Specific Plan area:

1. **Amusement Devices.**

- a. Up to five amusement devices, not to exceed ten percent of the public floor area, may be permitted per business without being considered an arcade and thus subject to the additional standards subject to arcades.
- b. The amusement devices shall not obstruct entries, exits, aisles, doorways, bicycle parking facilities or other pedestrian areas.
- c. Adult supervision is required and the amusement devices shall be placed in an area that is visible to the supervisor at all times.
- d. At least one bicycle parking space shall be provided for each amusement device.

2. **Arcades.**

The following additional standards and guidelines shall apply to video arcades within the Specific Plan area, which are defined as locations containing more than five amusement devices:

- a. **Adult Supervision.** An adult supervisor shall be located on a raised dais located to facilitate the observation of all games and all areas of business in the arcade. The adult supervisor shall be present at all times during the hours of operation, and, if the number of amusement devices exceeds forty, there shall be two adult supervisors.
- b. **Bicycle Racks.** Bicycle storage racks shall be provided in accordance with Chapter 9.72, Off-Street Parking and Loading Regulations, of the Development Code.
- c. **Hours of Operation.** The hours of operation of arcades shall be limited to between the hours of 8:00 a.m. and 12:00 a.m. Sunday through Thursday and 8:00 a.m. to 2:00 a.m. Friday and Saturday. Hours may be more restrictive adjacent to residential districts.
- d. **Lighting.** All arcades shall be fully lighted to the extent that all areas of the premises are easily observable.
- e. **Litter.** The premises shall be continuously maintained in a safe, clean and orderly condition with trash receptacles provided.
- f. **Maximum Number of Machines.** The maximum number of games shall not exceed one machine per each 30 square feet of public floor area.
- g. **Noise.** The sound created by any arcade or by its patrons shall not be detectable from outside the video arcade or from adjacent uses, and shall comply with the provisions of Chapter 9.70, Performance Standards, of the Development Code.
- h. **On-site Security.** After review by the Town's Police Chief, a determination may be made that on-site security may be required based on the following:
 - 1. The square footage of the arcade;
 - 2. Expected customer attendance;
 - 3. Design of the interior and/or exterior of the arcade;
 - 4. The nature and character of the neighborhood and the surrounding area;
 - 5. The location of the arcade within a shopping center and the effects thereof;
 - 6. The building occupancy limit; and
 - 7. The nature and character of adjacent uses and other uses in the area.
- i. **Smoking and Drinking.** Alcoholic beverages or cigarettes shall not be sold or consumed on the premises of the arcade, except that alcoholic beverages or cigarettes may be sold in connection with a retail business of which the arcade is an accessory use. Appropriate signs shall be displayed within the premises.
- j. **Telephone.** At least one public telephone shall be provided at each arcade.

B. Automated Teller Machines.

The following additional standards and guidelines shall apply to automated teller machines within the Specific Plan area:

1. Automatic Teller Machines (ATMs) shall be installed in accordance with State law.
2. The following safety features shall be provided:
 - a. Lighting during hours of darkness for the ATM and any defined parking area, access area and the exterior of an enclosed ATM installation;
 - b. A minimum of ten-candlefoot power at the face of the ATM, extending five feet outward, unobstructed;
 - c. A minimum of two-candlefoot power within 50 feet from all directions, unobstructed. If the ATM is located within ten feet of the corner of the building and the ATM is generally accessible from the adjacent side, a minimum of two-candlefoot power along the first 40 feet, unobstructed, of the adjacent side of the building;
 - d. A minimum of two-candlefoot power in that portion of the defined parking area within 60 feet of the ATM.
 - e. ATMs shall face a parking lot or thoroughfare.

C. Automotive Repair and Tire Sales.

The following additional standards and guidelines shall apply to automotive repair and tire sales within the Specific Plan area:

1. **Hours of Operation.** Any automotive repair or tire-lube facility shall be limited to the hours of 7:00 a.m. to 8:00 p.m. daily.
2. **Enclosures.** Repair facilities for body and fender work or similar noise-generating activities shall be conducted in fully-enclosed structures with walls of concrete block or similar materials. All painting shall occur within an approved fully enclosed booth.
3. **Hazardous Material.** Any handling, treatment, storage or use of hazardous material shall be in conformance with Chapter 9.70, Performance Standards, of the Development Code, and the operator of such 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. The Developer 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.
4. **Litter.** The premises shall be kept in a neat and orderly condition at all times. Improvements shall be maintained in a condition of reasonable repair and appearance. Used or discarded automotive parts or equipment or permanently disabled, junked or wrecked vehicles may be stored outside the main building, in locations not visible from any adjacent property or any public right-of-way.
5. **Paving.** All areas of the site not used for buildings and landscaping shall be paved.
6. **Repair Activities.** All repair activities and operations shall be conducted entirely within an enclosed building, except that service bay doors may be open during business hours. Outdoor service bays, hoists or lifts are prohibited. 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.
7. **Service Bays.** Service bay doors shall not face adjacent residential uses or districts.
8. **Storage.** Exterior parking areas shall be used for employee and customer parking only, not for the repair or finishing work or long term (more than one week) storage of vehicles. Vehicles to be repaired shall not be parked or stored in any street or alley. 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.

9. **Noise.** Exterior public address systems and music shall be prohibited.

D. Drive-in/Drive-Thru Restaurants.

The following additional standards and guidelines shall apply to Drive-in and Drive-Thru restaurants within the Specific Plan area:

1. **Drive-in/Drive-thru Stacking Space.** Stacking lanes for drive-in/drive-thru customers shall be of sufficient length to hold at least six vehicles (twenty -foot in length per vehicle) for a minimal total staking length of 120 feet. On-site driveways may be used for stacking space provided that access to required parking spaces is not obstructed, as shown on Figure 9.36.140-A of the Development Code.
 - a. Drive-in, drive-thru, delivery or take-out restaurant sites shall have two points of ingress/egress either to a public street system or to an interior parking lot circulation system which serves a group of businesses subject to approval of the Town Engineer.
 - b. Vehicle entrances to drive-thru businesses shall be located a minimum of 150 feet, 200 feet is preferred, from the nearest intersection.
 - c. Drive-thru facilities shall be provided separate queuing and circulation for drive-thru traffic to insure access for other traffic to parking spaces or exits without waiting in drive-thru service lanes.
 - d. Drive-thru facilities shall be provided screening and protection from sun and wind through the use of special landscape and architectural treatments such as berming and bays around the drive aisle.
 - e. Drive-thru facilities shall provide a minimum of ten feet of landscaping at the corners between adjacent streets.
 - f. 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 Community Development Director. This review and approval is ministerial and may not be appealed.
2. **Landscaping.** Berming and landscaping shall be provided to screen the entire drive-thru area. 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. Landscaping shall be installed and permanently maintained in compliance with Chapter 9.75, Water Conservation/Landscaping Regulations, of the Development Code.
3. **Lighting.** All on-site lighting shall comply with Chapter 9.70, Performance Standards, of the Development Code.
4. **Menu Boards.** 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 the adjacent single-family neighborhood.
5. **Noise.** Drive-in, drive thru, delivery or take-out restaurants shall comply with the provisions of Chapter 9.70, Performance Standards, of the Development Code.
6. **Parking.** A parking and vehicular circulation plan encompassing adjoining streets, alleys and uses shall be submitted for the review and approval of the Town Engineer prior to the issuance of building permits. This review and approval is ministerial and may not be

appealed. In addition, all on-site parking shall comply with Chapter 9.72, Off-Street Parking and Loading Regulations, of the Development Code.

7. **Signs.** All on-site signs shall comply with the signage requirements for the Specific Plan area.
 8. **Trash Enclosures.** Trash enclosures shall be provided in accordance with the provisions contained in Section 9.35.090, Trash Enclosures, of the Development Code.
- E. Outdoor Displays, Sales and Uses.**

The following additional standards and guidelines shall apply to the outdoor display and sale of merchandise within the Specific Plan area:

1. The merchandise on display, or for sale, shall be located outside of an enclosed building only during the business hours of the related or associated business.
2. All merchandise displayed or made available outside an enclosed building shall consist of new items, collectables and/or antiques (as defined herein) and new hand-made crafts. No second-hand or previously used items (except antiques and collectables) shall be displayed or allowed for sale outside of an enclosed building. No items shall be displayed upon the ground, except those items which, by their nature (such as antique furniture), are too large or too heavy to be placed upon a display table.
3. 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.
4. All merchandise displayed or made available outside an enclosed building shall not obstruct the entrance/exit to the development or any building, drive isle, driveway, emergency isle or exit or required parking spaces. Said merchandise shall not be placed in or be allowed to damage or negatively impact landscaped areas on site.
5. All merchandise displayed or made available outside of an enclosed building shall not be placed in a manner so as to become a visual distraction to motorists or pedestrians using the public right-of-way, or interfere with traffic signals or controls.
6. The merchandise displayed or made available for sale outside an enclosed building shall not interfere with, or impede the flow of, pedestrian or vehicular traffic, on, within or through the site.
7. No items, or any portion of a displayed item, shall be displayed in the public right-of-way.

F. Recycling Facilities.

1. Reverse Vending Machines

Reverse vending machines within the Specific Plan area shall comply with all other standards of the Specific Plan in addition to the following criteria:

- a. Machines shall be established in conjunction with a commercial use or community service facility that is in compliance with this Development Code and the building and fire codes of the Town;
- b. Machines shall not occupy parking spaces required by the primary use;
- c. Machines shall occupy no more than 50 square feet of floor space per installation, including any protective enclosure, and shall be no more than eight feet in height;
- d. Machines shall be constructed and maintained with durable, waterproof and rustproof material;

- e. Machines shall be clearly marked to identify the type of material to be deposited, operating instructions, and the identity and phone number of the operator or responsible person to call if the machine is inoperative;
- f. Machines shall have a sign area of a maximum of four square feet per machine, exclusive of operating instructions;
- g. Machines shall be maintained in a clean, sanitary and litter-free condition on a daily basis;
- h. Operating hours shall be consistent with the primary use;
- i. Machines shall be illuminated to insure comfortable and safe operation if the operating hours are between dusk and dawn;
- j. Machines shall maintain an adequate on-site refuse container for disposal of nonhazardous waste.

2. Small Collection Facilities.

Small collection facilities shall comply with the standards of the Specific Plan and the following criteria:

- a. Facilities shall be established in conjunction with a commercial use or community service facility that is in compliance with the Town Development Code, building and fire codes;
- b. Facilities shall be no larger than 500 square feet and occupy no more than five parking spaces, not including space that will be periodically needed for removal of materials or exchange of containers;
- c. Facilities shall be set back at least ten feet from any property line and shall not obstruct pedestrian or vehicular traffic;
- d. Facilities shall accept only glass, metals, plastic containers, papers and reusable items;
- e. Facilities shall use no power-driven processing equipment except reverse vending machines;
- f. Facilities shall use containers that are:
 - 1. Constructed and maintained with durable waterproof and rustproof material;
 - 2. Covered when the site is not attended;
 - 3. Secured from unauthorized entry or removal of material; and
 - 4. Of sufficient capacity to accommodate materials collected and the collection schedule.
- g. All recyclable material shall be stored in containers or in the mobile unit vehicle and shall not be left outside of containers when the attendant is not present;
- h. Facilities shall be maintained in a clean and sanitary manner free of litter and any other undesirable material;
- i. Noise levels shall not exceed 65 dba as measured at the property lines of adjacent residential uses or districts; and
- j. Facilities shall not be located within 100 feet of any residential use or district;
- k. Collection containers shall be clearly marked to identify the type of material that may be deposited, to identify the name and phone number of the operator of the

facility, the hours of operation, and to display a notice that no material shall be left outside the recycling enclosure or containers;

- l. Signs may be provided as follows: 1) Recycling facilities may have identification signs with a maximum area of 15 percent per side of a structure or 16 square feet, whichever is larger. In the case of a wheeled facility, the side shall be measured from the ground to the top of the container; 2) Signs shall be compatible with existing signs at the location; 3) Directional signs, with no advertising message, may be installed with the approval of the Director if necessary to facilitate traffic circulation or if the facility is not visible from the public right-of-way;
- m. The recycling facility shall not harm or interfere with the required landscaping on the site;
- n. No additional parking spaces shall be required for customers of a small collection facility located within the established parking lot of the primary use. One space will be provided for the attendant, if necessary;
- o. An area for mobile recycling units shall be clearly marked to prohibit other vehicular parking during the hours when the mobile unit is scheduled to be present;
- p. Occupation of parking spaces by the recycling facility and by the attendant shall not reduce the available parking spaces below the minimum number required by the primary use unless the following conditions exist: 1) A parking study shows that existing parking capacity is not fully utilized during the time that the recycling facility will be on the site; 2) The approval will be reconsidered after 18 months;
- q. Facilities shall maintain an adequate on-site refuse container for disposal of nonhazardous waste.

G. Service (Gasoline) Stations.

The following additional standards and guidelines shall apply to service and gasoline stations within the Specific Plan area:

1. Buildings or structures shall not be located within 20 feet of any street right-of-way, or within five feet of any interior property line.
2. Fuel pump islands shall be designed to minimize traffic conflicts. Gasoline pumps shall be at least 20 feet from any property line.
3. Canopies shall be at least ten feet from any property line and shall be architecturally integrated with the main structure.
4. Service stations shall be compatible with adjacent commercial developments through the use of compatible materials, textures, colors, landscaping treatment and access.
5. Screening and buffering shall be in accordance with Chapter 9.37, *Commercial and Office Districts Design Standards*, of the Development Code. In addition, service stations shall be separated from adjacent residential district or use by a minimum six-foot high decorative masonry wall. Materials, texture, color and design of the wall shall be compatible with on-site and adjacent development.
6. Landscaping shall be installed and permanently maintained in compliance with Chapter 9.75, *Water Conservation/Landscaping Regulations*, of the Development Code, and the following:
 - a. A minimum of ten percent of the site shall be landscaped, including a minimum three-foot wide planting strip along all interior property lines and adjacent to buildings. Landscaped areas shall be surrounded by a concrete curb to preclude vehicles from driving over the sidewalk at other than access driveways. Permanent opaque landscaping or berming shall be maintained in street frontage

landscaped areas at a minimum height of three feet, except in any driveway or intersection clear sight triangle.

- b. A minimum of 150 square feet of landscaped area shall be provided at the intersection of two property lines at a street corner.
 - c. All landscaped areas shall be maintained in a neat, orderly and safe manner. Such landscaping and maintenance shall include, but is not limited to, the installation and use of an automatic irrigation system, permanently and completely installed so as to deliver water directly to all landscaped areas.
7. One driveway, with a maximum width of 32 feet, shall be permitted on any one street frontage and shall be located as follows:
- a. Driveways shall not be located closer than 150 feet from the intersection of major roads and 100 feet for other roads from the beginning curb return of a street intersection or 25 feet from a residential property line or alley. Driveways shall not interfere with the movement and safety of vehicular and pedestrian traffic. Any deviation requires the written approval of the Town Engineer.
 - b. All lubrication and wash racks shall be located within a fully enclosed building. Access to the service bays and wash racks shall not be located within 50 feet of a residential use or district.
8. All service stations shall provide air and water to customers.
9. All service stations shall provide at least one men's and one women's restroom. Restrooms shall be accessible to the general public and to the physically disabled during normal operating hours.
10. Coin-operated vending machines shall not be allowed outside a structure for the purpose of dispensing items commonly found in a service station, such as refreshments and maps.
11. All repair and service activities and operations shall be conducted entirely within a fully enclosed building, except as follows:
- a. The dispensing of petroleum products, water and air; and
 - b. The replacement of items such as wiper blades, fuses, radiator caps and lamps.
12. Trash enclosures shall be provided in accordance with the provisions contained in Section 9.35.090, *Trash Enclosures*, of the Development Code.
13. All service stations shall, at all times, be operated in a manner not detrimental to surrounding properties or residents. Site activities shall comply with Chapter 9.70, *Performance Standards*, of the Development Code, and shall not produce any of the following:
- a. Damage or nuisance from noise, smoke, odor, dust, or vibration;
 - b. Hazard from explosion, contamination, or fire; or
 - c. Hazard occasioned by the unusual volume or character of traffic, or the congregating of a large number of people or vehicles.
14. All service stations selling alcoholic beverages shall conspicuously post the premises with signs prohibiting the consumption of alcoholic beverages on-site.

In addition, the following accessory uses to service stations are permitted within the Specific Plan area:

- a. Vehicle washing and lubricating services;
- b. The sale and servicing of tires, batteries, replacement items and other automotive accessories;

- c. Minor automotive repair;
- d. Towing service limited to two tow trucks; and
- e. The rental of trailers and trucks shall be permitted as an accessory use subject to the following:
 - 1. The rental equipment does not occupy or interfere with the required parking for the service station;
 - 2. The rental operation is clearly incidental to and secondary to the primary use;
 - 3. Rental equipment shall not obstruct vehicle or pedestrian access or line-of-sight;
 - 4. Screening and buffering shall be in accordance with Chapter 9.37, Commercial and Office Districts Design Standards, of the Development Code.
 - 5. Service stations that remain vacant or cease operations for more than 180 days shall be required to have all underground storage tanks (unless waived in writing by the Apple Valley Fire District and the San Bernardino County Environmental Health Services Department), all gasoline pumps and pump islands, and free-standing canopies, removed. This requirement does not apply to tanks that have never been utilized for fuel storage.
 - 6. If the service station is to resume operation after one year, the approval of a Special Use Permit is required.
 - 7. Converted Service Stations. Service station sites and buildings which are proposed for conversion to another use are subject to the approval of a Conditional Use Permit.

3. General Design Concepts.

Within the Specific Plan, general design concepts address the nature and function of the use, building, or feature being considered.

The Specific Plan proposes to use certain architectural elements that complement the design of the Apple Valley Commons shopping center to the west of the Specific Plan area, as shown on Figures 4 and 5 (Exterior Elevations). 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 Specific Plan design concept 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 precast concrete medallions, decorative tile and stone veneer, will provide Spanish details to all buildings proposed within the Specific Plan area.

The Major Tenant building within the Specific Plan has been designed with strong architectural elements and vertical features, as shown on Figures 4 and 5 (Exterior Elevations). 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 Specific Plan area, but at a smaller scale. The height of any architectural element/feature shall not exceed a height of 42 feet.

The Specific Plan will provide pedestrian focal points and gathering places. A pedestrian plaza area, with convenient access to the Civic Center Park, is south of the proposed anchor tenant 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 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."

4. Landscaping.

The quality environment envisioned for the Specific Plan will be established, in large part, by its landscape treatment. Landscaping is to be designed to highlight positive visual features, to screen negative ones, and to provide a cool, pleasant outdoor environment. Landscaping is also intended to give structure and identity to the overall development in the Specific Plan, and will substantially conform to the design shown on Figures 6 through 8. The following landscaping standards shall be adhered to:

- a. All slopes over three feet in height shall be landscaped and irrigated according to Town standards.
- b. 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.
- c. 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. Approval of landscape and irrigation plans shall be ministerial and not appealable. 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.
- d. 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 the Development Code.
- e. The minimum tree within the center shall be a 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 48-inch box size specimen.
- f. 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.
- g. 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.

5. On-Site Circulation and Parking.

On-Site Circulation.

The on-site circulation standards within the Specific Plan will ensure the efficient and safe passage of vehicles and pedestrians to and from the various commercial uses within the Specific Plan area. On-site circulation within the Specific Plan area shall adhere to the following requirements:

- a. 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.

- b. 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.
- c. 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

Parking.

- a. Parking requirements shall be met and be in compliance with the standards set forth in Chapter 9.72 of the Town Development Code. All parking stalls shall be clearly striped and permanently maintained with double or hairpin lines. A maximum of 1,218 parking stalls shall be provided within the Specific Plan area.
- b. 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.

6. Signage.

All identification signs shall have a separate permit and are subject to final approval by the Town Planning Division. Review and approval of a sign permit is ministerial and not appealable. In addition, the following standards and guidelines shall apply to on-site signage within the Specific Plan area:

- a. Pylon Signs/Monument Signs.

The on-site signage for the Specific Plan area shall include the construction of one pylon sign and three monument signs along Dale Evans Parkway. Two monument signs may be no more than six feet in height, one monument sign may be no more than 15 feet in height, and the pylon sign may be no more than 25 feet in height. Pylon signs must be separated by 200 feet. Both of the monument signs located at each of the two entrances along Dale Evans Parkway shall be located a minimum of 50 feet south of the entrances to prevent any sight clearance issue with vehicular traffic entering, leaving or passing by the center.

- b. Wall Signage.

All wall signs shall consist of interior-illuminated, plastic faced, metal channel letters, and reverse channel letters are encouraged. Can signs may be approved on a case by case basis by the Community Development Director, provided that the can sign represents a registered trademark, symbol or logo commonly used by the tenant. Exposed raceways and exposed neon are prohibited.

- c. Major Tenant Signage.

The Major Tenant is allowed one square foot of signage per each linear foot of building frontage, with sign coverage limited to 80 percent of the building's façade. The Major Tenant signage may not exceed four feet in height for primary signage and two feet in height for secondary signage.

- d. Single Tenant Pad.

One square foot of signage shall be allowed per each linear foot of building frontage with sign coverage limited to 80 percent of the building's façade, not to exceed two feet of overall height for single line and two feet six inches for double line.

e. Miscellaneous Signage.

Any sign not specifically identified in the Specific Plan shall be subject to the regulations of the Development Code.

7. Lighting.

All lighting within the Specific Plan area shall adhere to the following requirements:

- a. 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.
- b. Light standards shall blend architecturally with buildings, pedestrian areas and other hardscape elements.
- c. 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.

8. Fire Protection.

The Specific Plan Area is protected by the Apple Valley Fire Protection District (Fire District). Prior to construction occurring on any parcel, the owner shall contact the Fire District for verification of current fire protection development requirements. The following section addresses fire protection requirements for the Specific Plan area:

- a. 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 22 feet inside and minimum of 40 feet outside turning radius with no parking on street, or 47 feet with parking. Uniform Fire Code, Section 902.2.2.3. Apple Valley Fire Protection District Ordinance 41, Section 1 (e). Install per Fire District Standard Series #202.
- b. Plans for fire protection systems designed to meet the fire flow requirements set forth below shall be submitted to and approved by the Fire District and water purveyor prior to the installation of said systems. (Apple Valley Fire Protection District, Ordinance 42).
 1. Unless otherwise approved by the Fire Chief, on-site fire protection water systems shall be designed to be looped and fed from two remote points. The minimum water main size is twelve inches.
 2. 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 Fire District Standard Series #101.
 3. 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 Fire District Standard. Install per Fire District Standard Series #101.

- c. An approved fire sprinkler system shall be installed throughout any building:
 - 1. 5,000 square feet or greater, including garage and enclosed areas under roof, or
 - 2. 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).

- d. A letter shall be furnished to the Fire District from the water purveyor stating that the required fire flow for a development in the Specific Plan area can be met, prior to obtaining a Certificate of Occupancy.
- e. Fire 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.
- f. Prior to issuance of a Building Permit, the developer shall pay all applicable fees as identified in the Apple Valley Fire Protection District Ordinance.
- g. A Knox Box Rapid Entry System shall be required for development in the Specific Plan area. Uniform Fire Code, Section 902.4. Install per A.V. F.P.D. ARI #5.

9. Noise.

All requirements of the Town's Noise Ordinance shall be met at all times within the Specific Plan Area. In addition, delivery trucks shall be limited to delivering during the daytime hours of 7:00 a.m. to 8:00 p.m. Monday through Saturday.

SECTION 9.40.040. INFRASTRUCTURE, ROADS, GRADING AND CONSTRUCTION.

A. INFRASTRUCTURE.

1. Water Facilities.

The Specific Plan area will be provided potable water by AVRWC. All proposed water system improvements will be designed and constructed to the satisfaction of the Town and the AVRWC. The Specific Plan area water supply and demand issues are comprehensively addressed within the 2005 Urban Water Management Plans ("UWMPs").

Based on AVRWC planning and design criteria, the Specific Plan area water demand is as follows:

**Table 3
Apple Valley Commercial Specific Plan Estimated Water Demand**

Use	Acreage	Gallons Per Day (gpd)	Acre-Feet Per Year (af/yr)
Commercial Water Demand	30.19	19,200	21.509

The developer is responsible for ensuring that all requirements to obtain water service for the Specific Plan area are met with AVRWC as well as all other applicable agencies. All water mains and fire hydrants providing required fire flows shall be constructed in accordance with all

applicable requirements of the Fire District, subject to the approval by AVRWC. All approvals required shall be ministerial and not appealable.

2. Wastewater Facilities.

The Specific Plan area will be provided wastewater service by the Town of Apple Valley Wastewater Division for wastewater collection, and by VVWRA for wastewater treatment. Wastewater treatment demands of the Specific Plan area are conservatively estimated to approximate the Specific Plan area's commercial water demand, estimated at 19,200 gallons per day (0.019 MGD). This represents approximately 0.13 percent (0.0013) of the VVWRA current plant capacity, and approximately 0.10 percent of the near-term VVWRA 2008 expanded plant capacity.

Table 4

Apple Valley Commercial Specific Plan Estimated Wastewater Flows

Use	Acreage	Gallons Per Day (gpd)
Commercial Sanitary Sewer Flow	30.19	19,200

Developer is responsible to ensure that all requirements to obtain wastewater service for the Specific Plan area are met with the Town of Apple Valley Wastewater Division and VVWRA, as well as all other applicable agencies. These approvals are ministerial and not appealable.

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.

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.

3. Drainage.

The topography of the Specific Plan area results in an overland flow with an ultimate discharge onto Dale Evans Parkway. The Specific Plan area also collects approximately 2.60-acres of runoff from a portion of Dale Evans Parkway. The Specific Plan area will utilize a combination of four surface basins to retain and infiltrate the runoff generated by the 100-year 24-hour storm event, as shown on Figures 9 and 10, and subject to the following requirements:

- a. 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.
- b. Any developer fees including but not limited to drainage fees shall be paid by the developer as per Town enactment.
- c. 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.
- d. Grading and drainage plans must be submitted to and approved by the Building Official, Planning Department and Town Engineer prior to permit issuance.

4. Water Quality.

The existing drainage within the Specific Plan area is discussed above in Section 9.40.020(C)(2), Hydrology.

During construction, in accordance with the National Pollution Discharge Elimination System (NPDES) requirements for storm water quality, the developer will be required to prepare a construction activities erosion control plan to alleviate potential sedimentation and storm water discharge contamination impacts of development within the Specific Plan area. The Developer will also be responsible for obtaining a General Permit for storm water discharge from the Santa Ana Regional Water Quality Control Board. Under the General Permit, discharge of materials other than storm water is prohibited. In addition, the developer must 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.

A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) must be submitted to and approved by the Engineering and Building Departments prior to issuance of a grading permit and or any land disturbance.

During operations, all activities must comply with a Water Quality Management Plan (WQMP), which includes various Treatment Control Best Management Practices (BMPs). Compliance with the WQMP would ensure that operational activities within the Specific Plan area would not violate any water quality standards. A Final WQMP shall be submitted for review and approval by the Public Works Department/Town Engineer for all ongoing drainage facilities and maintenance. The Final WQMP shall conform to the latest requirements set forth by the Lahontan Regional Water Quality Control Board.

5. Solid Waste Disposal.

As discussed in Section 9.40.020 (D)(3) of this Specific Plan, solid waste generated in the Specific Plan area may be disposed of at any of the six regional landfills in the area, although it is anticipated that such waste will be transported to, and disposed of at, the Victorville Regional Sanitary Landfill. Waste generation of the Specific Plan area is estimated at 3.1 tons per day, and maximum throughput of the landfill is 3,000 tons/day. Waste generated by the Specific Plan area would comprise approximately 0.103 percent of the Landfill's maximum permitted daily throughput.

6. Police Protection.

Police protection for the Specific Plan area will be provided by the Apple Valley Police Department, as a contract service of the San Bernardino County Sheriff. No new or expanded police protection facilities are needed to adequately serve the Specific Plan area.

7. Fire.

Fire protection services for the Specific Plan area are provided by the Apple Valley Fire Protection District. No new or expanded fire protection facilities are needed to adequately serve the Specific Plan area.

8. Electricity and Telecommunications.

Electricity for the Specific Plan area will be provided by Southern California Edison. No new energy-producing facilities would be necessary to serve the Specific Plan area, nor will the Specific Plan area require the construction or extension of new energy transmission lines. Telecommunication services for the Specific Plan area will be provided by various private companies. Natural gas for the Specific Plan area will be provided by Southwest Gas. All utilities shall be placed underground in compliance with Town Ordinance No. 89.

B. ROADS.

Access to the Specific Plan area allows for safe and efficient travel to and from the area. Administrative provisions and signage of the Specific Plan will facilitate direction and access throughout the area. Public transportation will be permitted in the Specific Plan area.

Access to the Specific Plan area will be provided via Dale Evans Parkway via two (2) driveways. The southerly driveway onto Dale Evans Parkway (Driveway 1) will be signalized and aligned with the opposing driveway which provides access to the Lowe's development on the west side of Dale Evans Parkway. Driveway 1 will provide two lanes inbound and two lanes outbound. The northerly driveway (Driveway 2) will consist of a signalized northerly driveway onto Dale Evans Parkway located between Parcels 1 and 4, and in addition to patron traffic, will provide access for service vehicles (trucks) leaving the Specific Plan Area. The driveway will have one lane inbound and two lanes outbound.

In addition to these Specific Plan area improvements, the following off-site circulation improvements will be constructed as part of the Specific Plan:

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. A traffic signal shall be constructed on Dale Evans Parkway at the northeast access driveway. The traffic signal on Dale Evans Parkway at the northeast access driveway must have battery back-up, pre-emption, and be interconnected with nearby signals.
4. 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 Specific Plan area adjacent to the rear property line of the project as identified in General Plan Exhibit II-9, Recreational Trail System.
5. 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.
6. In addition to the bus turn-out identified above, the installation of a bus stop shelter will be required on Dale Evans Parkway.
7. Street improvement plans shall be submitted to the Town Engineer for review and approval. Such approval is ministerial and non-appealable.
8. Dale Evans Parkway adjacent to the property shall be improved to the Town's half-width major road standards, including an acceleration/deceleration line, raised median, and sidewalks.
9. 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.
10. A frontage foot fee must be paid for improvements previously constructed on Dale Evans Parkway.
11. 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.
12. An encroachment permit shall be obtained from the Town prior to performing any work in any public right-of-way.

13. 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.
14. Any required street striping shall be thermoplastic as approved by the Town Engineer.

C. GRADING AND CONSTRUCTION.

The Specific Plan area is relatively flat. To develop the Specific Plan area, the site will be graded and prepared for construction. The total earthwork is estimated to include approximately 36,000 cubic yards of fill. 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, and all grading shall be subject to the following requirements:

1. A pre-construction permit and inspection and a pre-grading meeting is required prior to any land disturbing activity or grading to verify requirements for erosion control, flood hazard native plant protection and desert tortoise habitat. 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

D. FISCAL IMPLEMENTATION.

Implementation of the Specific Plan including, without limitation, construction of all infrastructure and private facilities contemplated in the Specific Plan, will be financed as follows:

1. All infrastructure necessary to implement the Specific Plan will be privately funded (by way of debt and/or equity financing), except to the extent that the cost of components of the infrastructure is:
 - a. funded by development impact fees, fair share contributions and other payments to public agencies and/or;
 - b. reimbursed from any public source.
2. All private improvements necessary to implement the Specific Plan will be privately financed (by way of debt and/or equity financing).

SECTION 9.40.050. ADMINISTRATION.

A. PERMIT PROCESSING.

Development within the Specific Plan area which substantially conforms to the provisions of the Specific Plan and the various conceptual plans attached as Figures 2 to 10 shall be processed through the building permit and construction plan submittals. Any approval, decision, review or action in this respect shall be ministerial and not appealable.

For purposes of development anticipated under the Specific Plan, ministerial building permit and construction plan review includes any subsequent approvals, decisions, review or actions required by Town agencies, entities or individuals (i.e. Planning Division, Public Works, Building & Safety). The purpose of these approvals, decisions, review or actions is to ensure compliance with the provisions of the Specific Plan and all applicable building codes and requirements of the Town, County, State and other responsible agencies. Ministerial building permit and construction plan review shall be non-discretionary, final actions that cannot be appealed.

Development that is not consistent with the development standards set forth in the Apple Valley Commercial Specific Plan, shall either require a Substantial Conformance Determination, as discussed below, or require approval under the provisions and requirements of the Town Development Code for development in the C-G Zone.

B. SUBSTANTIAL CONFORMANCE DETERMINATION.

1. Substantial Conformance Determination – Purpose.

The Substantial Conformance Determination is a mechanism to allow the approval of minor modifications for development under the Specific Plan. Substantial Conformance Determinations may include, but are not limited to: minor modifications to the conceptual plans shown on Figures 2 to 10; inclusion of land uses not listed in Table 1 of the Specific Plan; modifications that might be necessary to comply with applicable infrastructure; public services and facilities requirements; landscape palette; and other issues. Substantial Conformance Determination shall not include significant modifications in the basic design of the Specific Plan area; significant changes to the height or bulk of the approved uses; or increases in the density or intensity of the approved uses unless specifically permitted by the provisions of this Specific Plan.

The use of Substantial Conformance Determination is intended to ensure orderly development, quality aesthetic design, and safe and harmonious placement of uses within the Specific Plan area. Substantial Conformance Determination (unless specifically noted otherwise) shall be made by the Community Development Director or designee administratively, without the need for a public hearing. Furthermore, the Substantial Conformance Determination will be final and not subject to appeal. In making a Substantial Conformance Determination, the Community Development Director or designee shall first make all of the required findings set forth in this section.

2. Guidelines for Substantial Conformance Determination.

The following guidelines define the provisions of the Specific Plan subject to Substantial Conformance Determination, and the limits placed on the degree of variance from the provisions of the Specific Plan that can occur through the Substantial Conformance Determination procedure.

Permitted Land Uses.

Land uses not listed as permitted in Table 1 of this Specific Plan may be permitted, subject to a Substantial Conformance Determination, provided that:

- The proposed use is compatible with the uses permitted described in Table 1 of this Specific Plan; and
- The proposed use is similar to and will not cause environmental impacts substantially greater than the other permitted uses set forth within Table 1 of this Specific Plan.

Infrastructure.

Any modifications to the alignment of access roads; parking lot configurations, or adjustments to individual infrastructure facilities plans such as drainage, sewer, water, and utilities shall be subject to Substantial Conformance Determination by the Community Development Director or designee. Prior to a Substantial Conformance Determination, the Community Development Director or designee shall make the finding that the proposed modification will not result in any environmental impacts substantially greater than those which would occur in the absence of the Substantial Conformance Determination.

Environmental Standards.

The Community Development Director or designee may approve minor variations from the Environmental Standards set forth in Section 6 of this Specific Plan, subject to a Substantial Conformance Determination. In making such a determination, the Community Development Director or designee shall first find that the proposed variation provides substantially equivalent environmental protection as the originally approved standard.

Conceptual Plans and Other Specific Plan Provision.

Provisions of the Specific Plan including, but not limited to, minor modifications to the conceptual plans attached as Figures 2 to 10, architectural details, landscape palette, building size, height, bulk, and orientation, parking lot layout, and other plan details may be modified

utilizing a Substantial Conformance Determination. In making such a determination, the Community Development Director or designee shall be required to find that the revisions requested under a Substantial Conformance Determination are consistent with the provisions of the Apple Valley General Plan, and will not create impacts substantially greater than those that would have resulted from the original approval of the Specific Plan.

A maximum 10 percent modification to permitted lot coverage, setbacks, floor area (other than the maximum allowable with the Specific Plan area site), and fence and wall heights may be permitted subject to a Substantial Conformance Determination by the Community Development Director or designee. In making such a determination, the Community Development Director or designee shall be required to find that the revisions requested under Substantial Conformance Determination are consistent with the provisions of the Apple Valley General Plan, and will not create impacts substantially greater than those that would have resulted from the original approval of the Specific Plan.

The required parking spaces may be reduced by the Community Development Director or designee subject to a Substantial Conformance Determination following preparation of a parking study that demonstrates the proposed reduction in parking spaces is justified based on the mix of uses within the Specific Plan area and the use of shared parking between those uses.

C. SUBSTANTIAL CONFORMANCE DETERMINATION.

1. Application.

Applications for a Substantial Conformance Determination shall be made on forms provided by the Community Development Director or designee and shall be accompanied by a filing fee. Applications shall be made by the owner of the property for which the approval is sought, or an authorized agent. Each of the Substantial Conformance Determinations required by this Specific Plan can be submitted and processed through one application and a pending application can be updated to include additional Substantial Conformance Determination requests.

2. Hearing.

No public hearing shall be required for a Substantial Conformance Determination.

3. Action by Reviewing Authority.

The reviewing authority for a Substantial Conformance Determination shall be the Community Development Director or designee. The reviewing authority shall take action by providing written notice to the developer approving, conditionally approving, or denying the Substantial Conformance Determination. The action of the Community Development Director or designee shall be final with no appeal.

4. Findings.

The Community Development Director or designee must make a Substantial Conformance Determination if all of the following findings, in addition to those identified above, can be made:

- The physical characteristics of the site have been adequately assessed, and proposed building sites are of adequate size and shape to accommodate proposed uses and all other features of development;
- There is supporting infrastructure, existing or available, consistent with the requirements of the Specific Plan, to accommodate the development without significantly lowering service levels;
- The development resulting from the Substantial Conformance Determination will not have a substantial adverse effect on surrounding property or the permitted use thereof, and will be compatible with the existing and planned land uses, as well as the character of the surrounding area; and
- The proposed improvements related to the development resulting from the Substantial Conformance Determination adequately address all natural and man-made hazards associated with the proposed development and the Specific Plan area site.

D. SPECIFIC PLAN AMENDMENTS.

1. Purpose.

Amendments to the Specific Plan shall be required for revisions that are beyond the scope of substantial conformance determinations. Specific Plan amendments are governed by *Government Code* Section 65453.

2. Process.

- a. The Specific Plan may be amended or repealed only by a majority of the voters voting in an election thereon.
- b. Notwithstanding subsection (a), upon application of the fee title holder of the Specific Plan area, the Town Council may amend the Specific Plan to further the purposes of this Specific Plan, but in no case can such amendment reduce or eliminate the parties' obligation to fund, construct, or cause to be funded or constructed, the public benefits or Environmental Standards required.

SECTION 9.40.060. ENVIRONMENTAL STANDARDS.

The Specific Plan includes environmental standards to ensure that development proceeds with appropriate environmental sensitivity. Environmental studies related to health risks, air quality, biological resources, geology and soils, hydrology and water quality, noise, public services and utilities, traffic, urban decay, and cultural resources were conducted for the potential development of the Specific Plan area. Environmental Standards were developed from these environmental studies, along with information from the Town Ordinances, General Plan and any other applicable local, regional, state or federal standards or requirements.

All Environmental Standards shall be implemented in accordance with the Specific Plan's environmental standards and implementation process as outlined in Table 5. The developer of the Specific Plan area shall bear all costs of implementing the Environmental Standards. The Developer shall prepare and submit written report(s) to the Planning Division/Community Development Director demonstrating compliance with the Environmental Standards. The reports(s) must be submitted as required by the Timing requirements, either prior to the commencement of an activity or permit issuance or upon completion of an activity or final inspection/Certificate of Occupancy, as specifically identified for each Environmental Standard. The Planning Division/Community Development Director may also require inspection or other monitoring to ensure compliance with these Environmental Standards.

Table 5
 Apple Valley Commercial Specific Plan Environmental Standards

Environmental Standards	Standard Timing	Implementation Agency	Monitoring/Reporting Entity
<u>Land Use</u>			
ES-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.	Prior to issuance of first Certificate of Occupancy	Developer	Town of Apple Valley Planning Division
<u>Traffic and Circulation</u>			
ES-2 Prior to the issuance of the first building permit within the Specific Plan area, the Developer shall contribute Development Traffic Impact Fees toward the following improvements at the intersection of Happy Trails Highway (SR-18) at Apple Valley Road: <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	Developer	Town of Apple Valley Planning Division
ES-3 Prior to the issuance of the first building permit within the Specific Plan area, the Developer shall contribute Development Traffic Impact Fees toward the installation of stop-sign controls on all four approached to the intersection of Flathead Road at Rancherias Road.	Prior to issuance of first building permit	Developer	Town of Apple Valley Planning Division
ES-4 Prior to the issuance of the first building permit within the Specific Plan area, the Developer shall contribute Development Traffic Impact Fees toward the installation of stop-sign controls on all three approached to the intersection of Rancherias Road at Thunderbird Road.	Prior to issuance of first building permit	Developer	Town of Apple Valley Planning Division

WEST APPLE VALLEY -- 687794

Environmental Standards	Standard Timing	Implementation Agency	Monitoring/Reporting Entity
ES-18 Development within the Specific Plan area shall display up-to-date transit routes for the Project area in a visible and convenient location for employees and customers.	Prior to issuance of first Certificate of Occupancy	Developer	Town of Apple Valley Planning Division
ES-19 Developer of the Anchor Tenant shall provide employee lockers as a safe repository for helmets and biking gear and encourage the use of alternate transportation means.	Prior to issuance of first Certificate of Occupancy	Developer	Town of Apple Valley Planning Division
ES-20 All loading dock and delivery areas of the Specific Plan area 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 serving the Project shall not idle more than five minutes per truck trip per day. 	Prior to issuance of first building permit	Developer	Town of Apple Valley Planning Division
ES-21 Energy efficiencies equal, or superior to Title 24 performance standards shall be achieved. On an aggregate basis, Project shall realize a minimum twenty (20) percent increase in energy efficiency standards identified under Title 24.	Prior to issuance of first building permit	Developer	Town of Apple Valley Planning Division
ES-22 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.	Prior to issuance of first Certificate of Occupancy	Developer	Town of Apple Valley Planning Division
ES-23 Landscaping within the Specific Plan area shall utilize drought-tolerant and smog-tolerant plants to ensure long-term viability and conserve water and energy.	Prior to issuance of first Certificate of Occupancy	Developer	Town of Apple Valley Planning Division
ES-24 Landscape plans shall include drought-resistant trees, shrubs, and groundcover within the parking lot and perimeter.	Prior to issuance of first Certificate of Occupancy	Developer	Town of Apple Valley Planning Division

Environmental Standards	Standard Timing	Implementation Agency	Monitoring/Reporting Entity
ES-25 Design within the Specific Plan Area shall incorporate light colored roofing materials that will deflect heat away from buildings and conserve energy.	Prior to issuance of first Certificate of Occupancy	Developer	Town of Apple Valley Planning Division
ES-26 Design within the Specific Plan Area shall provide for controls to allow the selective use of all illumination elements within the Project as an energy conservation measure.	Prior to issuance of first Certificate of Occupancy	Developer	Town of Apple Valley Planning Division
Noise			
ES-27 In order to minimize the effects of construction noise on nearby receptors, the Specific Plan Area's masonry sound wall (please refer to the following Environmental Standard ES-30) shall be erected prior to the issuance of any permits to construct onsite buildings.	Prior to issuance of first building permit	Developer	Town of Apple Valley Planning Division
ES-28 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."	Ongoing throughout grading and construction activities	Contractor	Town of Apple Valley Building Official
ES-29 "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.	Ongoing throughout grading and construction activities	Contractor	Town of Apple Valley Building Official

WEST APPLE VALLEY - 60378.4

Environmental Standards	Standard Timing	Implementation Agency	Monitoring/Reporting Entity
<p>ES-30</p> <p>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 Specific Plan area. This barrier shall be a continuous structure without gaps or gates. Along the Specific Plan area 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 Specific Plan area; or b) use sound absorptive masonry blocks (e.g. SoundBloc) to provide an equivalent degree of noise protection.</p>	<p>Prior to issuance of first grading or building permit</p>	<p>Developer</p>	<p>Town of Apple Valley Planning Division</p>
<p>ES-31</p> <p>The following activities shall be limited to the hours between 7:00am and 10:00pm: truck deliveries, loading dock activities, trash pick-ups, forklift operations and use of outdoor public address system(s). Specific Plan area tenants shall be provided written notice of these requirements and limitations by the Developer or his designee. Copies of such notification shall be provided to the Lead Agency.</p>	<p>Prior to issuance of first Certificate of Occupancy</p>	<p>Developer</p>	<p>Town of Apple Valley Planning Division</p>
<p>ES-32</p> <p>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. Specific Plan area tenants shall be provided written notice of these requirements by the Developer 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 ¹ Permittee.</p>	<p>Prior to issuance of first building permit</p>	<p>Developer</p>	<p>Town of Apple Valley Planning Division</p>
<p>ES-33</p> <p>Between 10:00pm and 7:00am trash shall not be dumped into the outdoor trash bins, and the trash compactor at Parcel 1 shall not be used. Cars used to transport trash to the outdoor bins shall have large-diameter rubber wheels to minimize noise. Specific Plan area tenants shall be provided written notice of this requirement by the Developer or his designee. Copies of such notification shall be provided to the Town. 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.</p>	<p>Prior to issuance of first Certificate of Occupancy</p>	<p>Developer</p>	<p>Town of Apple Valley Planning Division</p>

Environmental Standards	Standard Timing	Implementation Agency	Monitoring/Reporting Entity
<p>ES-34 All forklifts to be used at the major anchors shall be electric. Specific Plan area tenants shall be provided written notice of this requirement by the Developer or his designee. Copies of such notification shall be provided to the Town.</p>	Prior to issuance of first Certificate of Occupancy	Developer	Town of Apple Valley Planning Division
<p>ES-35 Developer of the Anchor Tenant'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 Developer or his designee. Copies of such notification shall be provided to the Town.</p>	Prior to issuance of first Certificate of Occupancy	Developer	Town of Apple Valley Planning Division
<p>Hydrology and Water Quality</p> <p>No Environmental Standards are necessary. However, the following Environmental Standards have been developed to further ensure that Project storm water basins are designed consistent with Town policies.</p>			
<p>ES-36 The implementation of four (4) on-site retention basins, within the Specific Plan 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.</p>	Prior to issuance of first grading or building permit	Developer	Town of Apple Valley Planning Division
<p>ES-37 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>	Prior to issuance of first grading permit	Developer	Town of Apple Valley Planning Division

Environmental Standards	Standard Timing	Implementation Agency	Monitoring/Reporting Entity
Biological Resources			
<p>ES-38</p> <p>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 purchase of off-site mitigation land, shall be part of the Mitigation Plan that shall be submitted to and approved by the CDFG prior to project grading including passive relocation methods and the location and acreage of proposed off-site mitigation land.</p>	Prior to issuance of first grading permit	Developer	Town of Apple Valley Planning Division
<p>ES-39</p> <p>All initial ground disturbing activities shall be limited to the time period between September 1 and February 1. If initial Project-specific site disturbances, 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.</p>	Prior to issuance of first grading permit	Developer	Town of Apple Valley Planning Division
<p>ES-40</p> <p>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.</p>	Prior to issuance of first building permit	Developer	Town of Apple Valley Planning Division

Environmental Standards	Standard Timing	Implementation Agency	Monitoring/Reporting Entity
<p>ES-41 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 recolonization by owls will require subsequent protocol active eviction.</p>	Prior to issuance of first grading permit	Developer	Town of Apple Valley Planning Division
<p>ES-42 Limits of the Specific Plan area shall be clearly marked by stakes or other means to ensure that off-site areas are not disturbed by Project construction activities. No Environmental Standards 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 Environmental Standard has been developed to further ensure consistency with Town</p>	Prior to issuance of first grading permit	Developer	Town of Apple Valley Planning Division
<p>ES-43 Consistent with the Town of Apple Valley Joshua Tree Ordinance, salvageable on-site Joshua trees will be relocated within the Specific Plan area or made available for adoption through the Town's Preservation and Adoption Program.</p>	Prior to issuance of first grading permit	Developer	Town of Apple Valley Planning Division
<p>Cultural Resources</p>			
<p>ES-44 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 curation of any recovered resources from an accredited museum repository shall signify completion of the program to mitigate impacts to archaeological/history resource resources. If disturbed resources are required to be collected and preserved, the Developer shall be required to participate financially up to the limits imposed by Public Resources Code Section 21083.2.</p>	Prior to issuance of first grading permit	Developer	Town of Apple Valley Planning Division

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Environmental Standards	Standard Timing	Implementation Agency	Monitoring/Reporting Entity
<p>ES-45</p> <p>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 of 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 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>	<p>Prior to issuance of first grading permit.</p>	<p>Developer</p>	<p>Town of Apple Valley Planning Division</p>
<p><u>Geology and Soils</u></p> <p>ES-46</p> <p>Prior to the issuance of construction permits, and to the satisfaction of the Town, the Developer 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 Specific Plan area 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>	<p>Prior to issuance of first grading permit.</p>	<p>Developer</p>	<p>Town of Apple Valley Planning Division</p>
<p>ES-47</p> <p>Prior to the issuance of construction permits, and to the satisfaction of the Town, the Developer 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 Specific Plan area 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>	<p>Prior to issuance of first grading permit.</p>	<p>Developer</p>	<p>Town of Apple Valley Planning Division</p>

Environmental Standards	Standard Timing	Implementation Agency	Monitoring/Reporting Entity
<p>ES-48</p> <p>Prior to the issuance of construction permits, and to the satisfaction of the Town, the Developer 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 Specific Plan area 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>	<p>Prior to issuance of first grading permit</p>	<p>Developer</p>	<p>Town of Apple Valley Planning Division</p>

SECTION 3. IMPLEMENTATION.

All other ordinances, rules and regulations that constitute legislative acts shall be amended as necessary to accommodate the implementation of the Specific Plan in accordance with this Initiative Measure.

The Town Council, the Planning Commission, the Town Planning Division, the Community Development Director, the Town Public Works Department, the Town Engineer, and other Town officials and employees so designated herein and in the Town's Development Code and Ordinances are further hereby authorized and directed to make such discretionary approvals and in accordance with the policies, direction and illustrative examples set forth in the Specific Plan, and such discretionary authority shall be retained and exercised by the Town in accordance with this Initiative Measure.

SECTION 4. NO UNCONSTITUTIONAL TAKING.

This Initiative Measure is not intended, and shall not be applied or construed to authorize the Town to exercise its powers in a manner which will take private property for public use without the payment of just compensation, but shall be interpreted, applied and implemented so as to accomplish its purposes to the, maximum constitutionally permissible extent without requiring payment of compensation.

SECTION 5. CONSISTENCY WITH OTHER BALLOT MEASURES.

In the event another ballot measure is placed on the same ballot as this Initiative Measure, purporting to deal with the same subject matter, and if both measures should pass, the voters expressly declare their intent that both measures shall be put into effect except to the extent that specific provisions of such measures are in direct conflict. In the event of such direct conflict, the measure that obtained more votes will control as to the conflicting provisions only. The voters expressly declare this to be their intent, notwithstanding any language to the contrary in any other ballot measure.

SECTION 6. EFFECTIVE DATE.

This Initiative Measure shall be considered adopted upon the date the vote is declared by the Town Council or the Town Council adopts the Initiative Measure as presented pursuant to Elections Code section 9214 and 9215, and shall go into effect 10 days thereafter.

SPECIFIC PLAN AREA

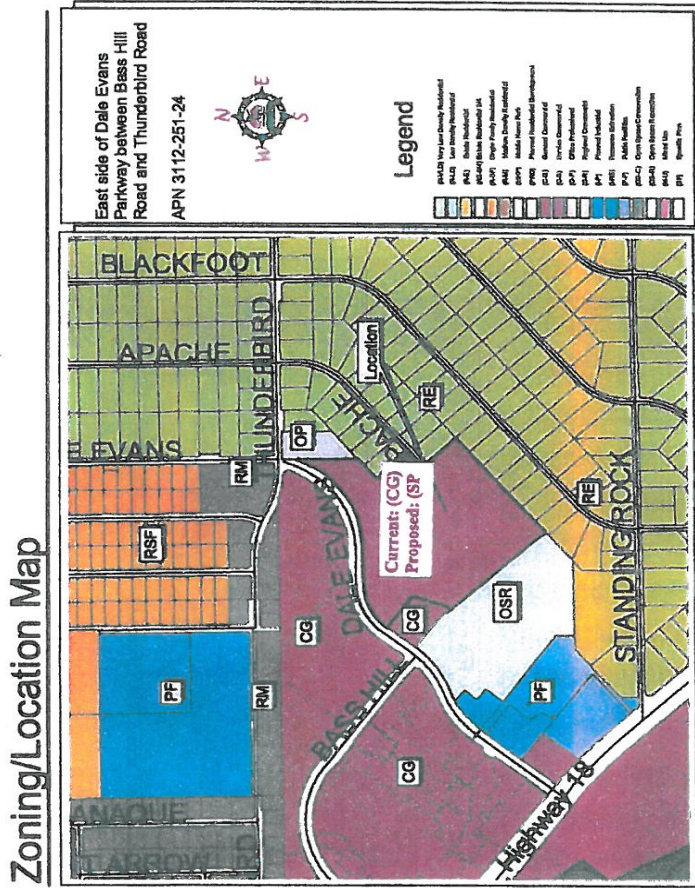


FIGURE 1

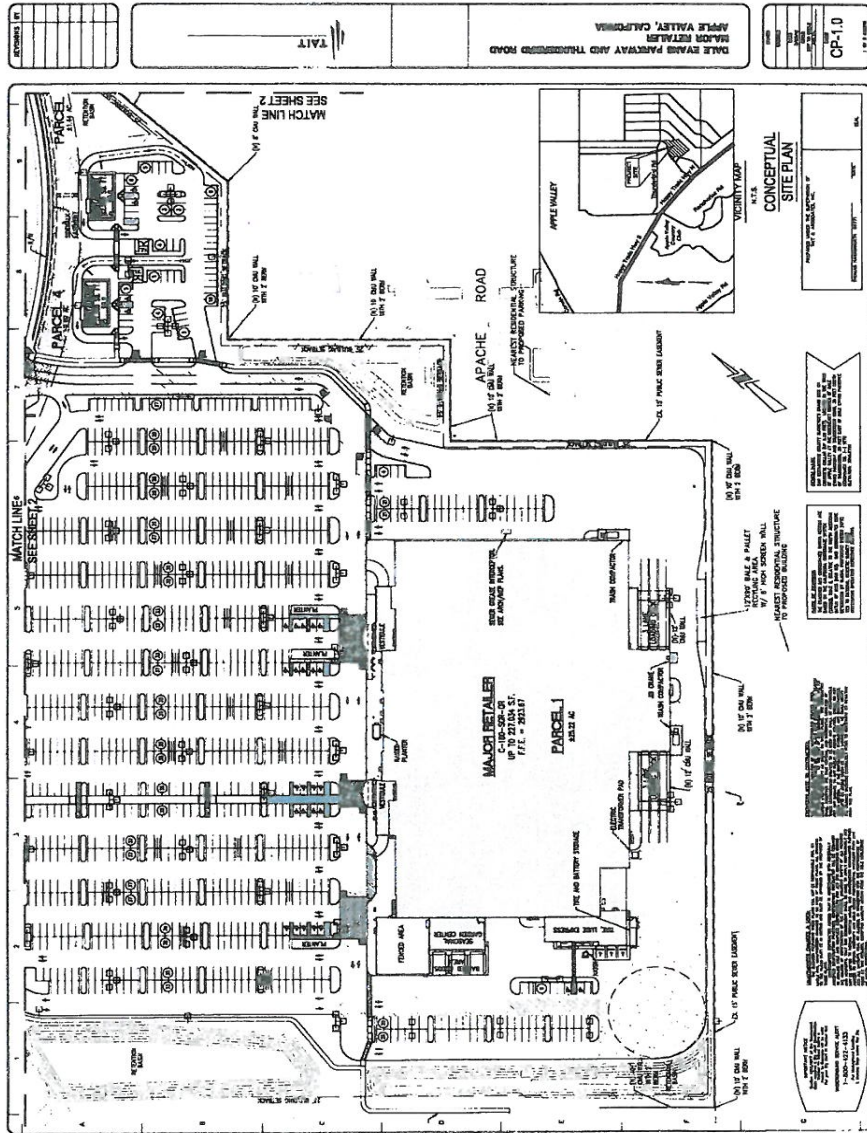


FIGURE 2

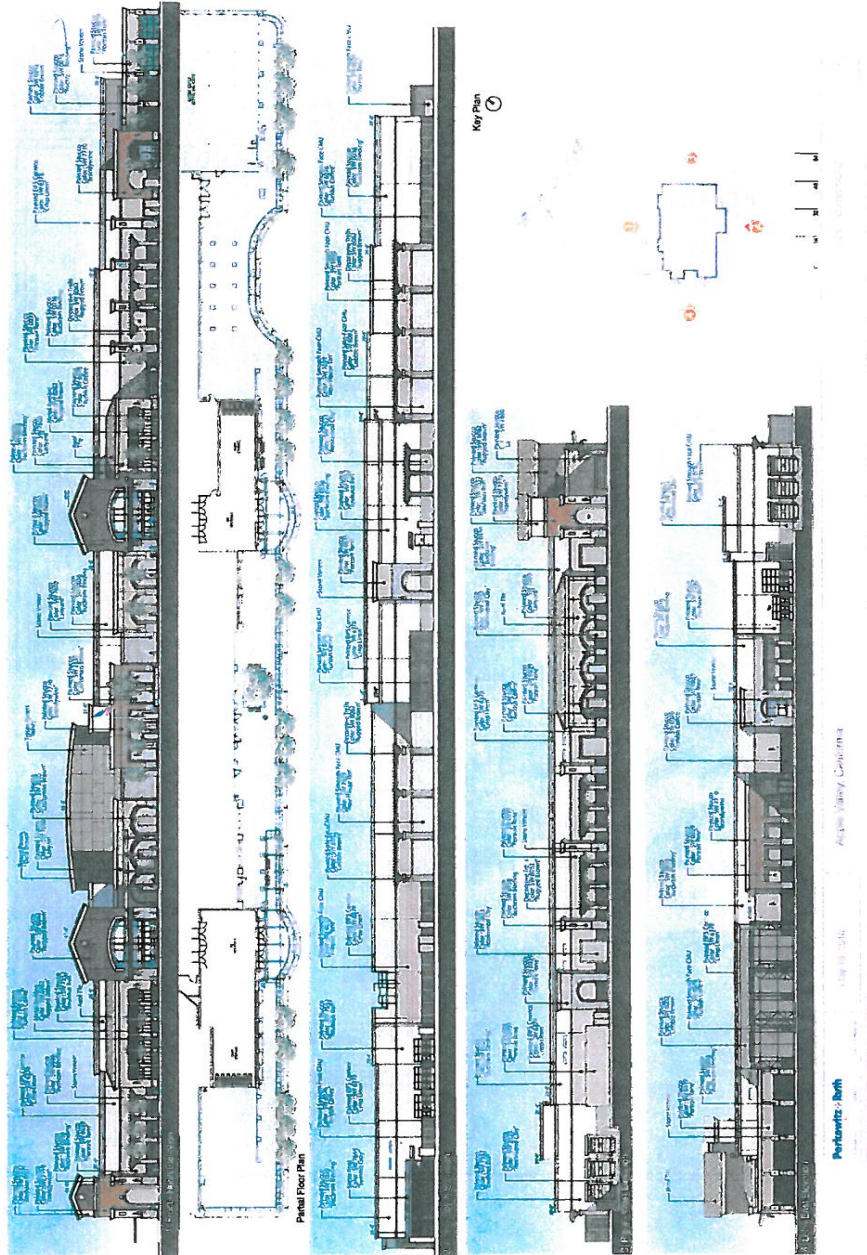
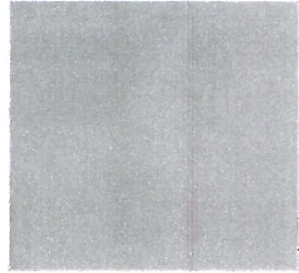
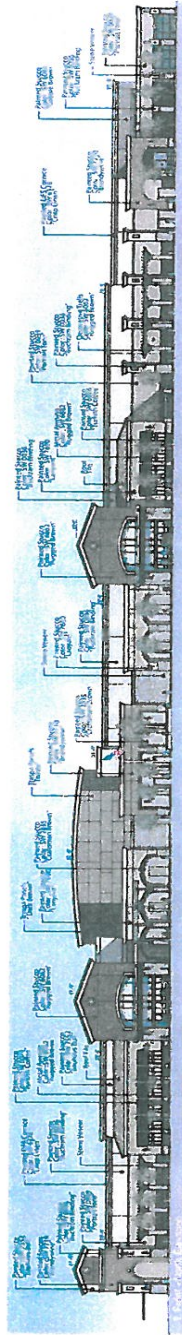


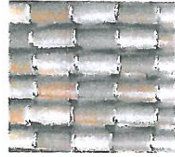
FIGURE 4



TRESPA METEON
"CENTER"



TRESPA METEON
"DARK BROWN"



CLAY TILE ROOF
US TILE - OLD WORLD BLEND



STONE VENEER-COROMADO STONE,
WEATHERED EDGE
"WISCONSIN BLEND"



SHERWIN WILLIAMS
"SW 7180 LANYARD"



SHERWIN WILLIAMS
"SW 7062 RUGGED BROWN"



SHERWIN WILLIAMS
"SW 7076 TURKISH COFFEE"



SHERWIN WILLIAMS
"SW 7039 PORTOFINO TONE"



SHERWIN WILLIAMS
"SW 7031 CRAFTSMAN BROWN"



SHERWIN WILLIAMS
"SW 7170 BRANDYSWINE"



SHERWIN WILLIAMS
"SW 7032 COBBLE BROWN"

SHERWIN WILLIAMS
"SW 7152 BAUHAUS BUFF"

Pendowitz Ruth

Apple Valley, California

FIGURE 5

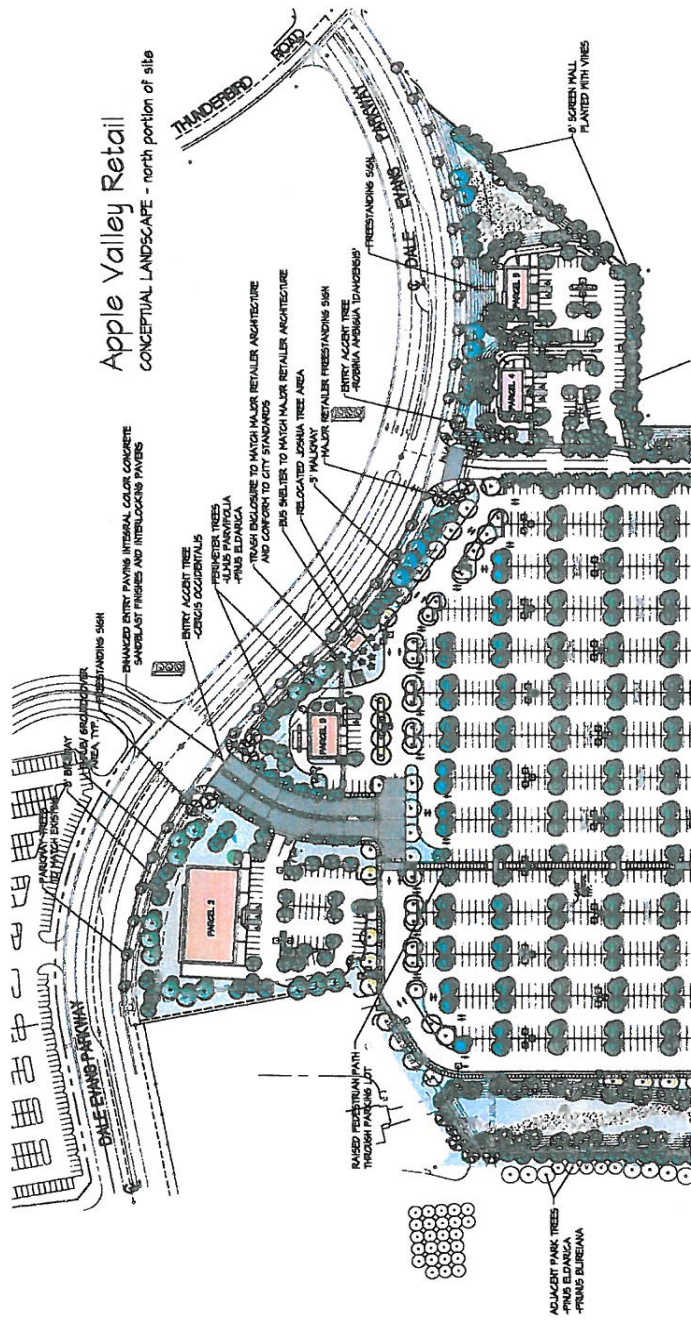
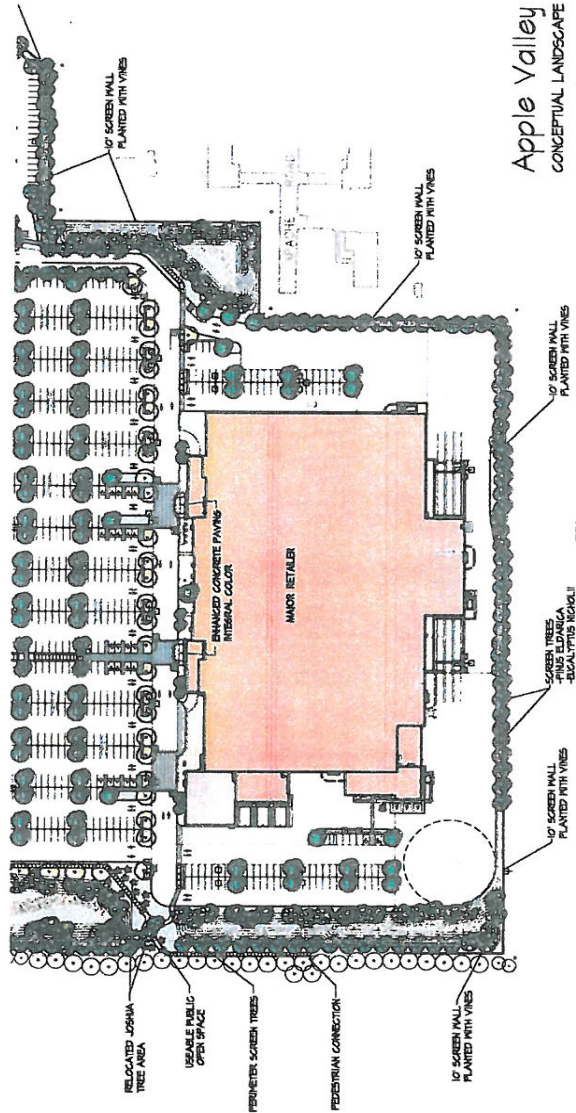


FIGURE 6



Apple Valley Retail
 CONCEPTUAL LANDSCAPE -south portion of site

FIGURE 7

PLANTING LEGEND

TREES				
Qty.	Botanical Name	Common Name	Size	Comments
	<i>Celtis occidentalis</i>	Common Hackberry	24" Box	Parking Lot
	<i>Cercis occidentalis</i>	Eastern Redbud	36" Box	Entry Accent
	<i>Baccharis vitifolia</i>	Pittosporum	15 gal.	Perimeter Screen
	<i>Abutilon triflorum</i>	Honey Locust	66" Box	Entry Accent
	<i>Koeberlinia parviflora</i>	Goldcrest Tree	24" Box	Parking Lot
	<i>Lagerströmia hybrid 'Hatchai'</i>	Crape Myrtle	24" Box	Building Accent
	<i>Platanus racemosa</i>	California Sycamore	15 gal.	Perimeter Screen
	<i>Pinus edulis</i>	Alghay Pine	15 gal.	Perimeter Screen/ Street Tree
	<i>Populus fremontii</i>	Western Cottonwood	15 gal.	Recreation Bush Screen Tree
	<i>Prosopis juliflora</i>	Argentine Mesquite	36" Box	Spokoon Tree
	<i>Prosopis juliflora</i>	Golden Mesquite	15 gal. 36" Box	Drive Aisle/ Parking Lot Tree
	<i>Robinia pseudo-acacia</i>	Black Locust	66" Box	Entry Accent
	<i>Ulmus parviflora</i>	English Elm	15 gal.	Street Tree

SHRUBS				
Qty.	Botanical Name	Common Name	Size	Comments
	<i>Agave americana</i>	Century Plant		
	<i>Alcea rosea</i>	Soap Aloe		
	<i>Artemisia tridentata</i>	Manzanita		
	<i>Atriplex spp.</i>	Saltbush		
	<i>Baccharis pilularis 'Twin Peaks'</i>	Desert Coyote Brush		
	<i>Ceanothus glaberrimus</i>	Desert Blueberry		
	<i>Catalpa bignonioides</i>	Pink Flower		
	<i>Ceanothus leucanthus</i>	NCH		
	<i>Citrus spicata</i>	Raspberry		
	<i>Baccharis spp.</i>	Baccharis		
	<i>Eucalyptus speciosa</i>	NCH		
	<i>Fuchsia ovata 'Misses'</i>	Blue Fuchsia		
	<i>Paederota snyderana</i>	Coastal		
	<i>Geum triflorum</i>	Geum		
	<i>Helleborus scaberrimus</i>	Blue Oak Green		
	<i>Hesperaloe parviflora</i>	Red Yucca		
	<i>Hemerocallis spicata</i>	Daylily		
	<i>Lavandula sp.</i>	Lavender		
	<i>Lonicera hispidula</i>	Tomato Ranges		
	<i>Lilium s. 'Silvery Starburst'</i>	Verticillium Big Lily Tree		
	<i>Muhlenbergia capillaris</i>	Orange Grass		
	<i>Myrica carolinensis</i>	Tree Myrtle		
	<i>Rhus ovata</i>	Sugar Bush		
	<i>Sedum spectabile</i>	Parsons' Red Autumn Sage		
	<i>Sedum spaldingii</i>	Desert Sage		
	<i>Sempervivum tectorum</i>	Hen and Chicks		
	<i>Yucca elata</i>	Spanish Bayonet		
	<i>Yucca schottlandii</i>	Hawkeye Yucca		
	<i>Yucca whipplei</i>	Chippewal Yucca		

PERENNIALS/VERBENAS				
Qty.	Botanical Name	Common Name	Size	Comments
	<i>Baccharis pilularis 'Twin Peaks'</i>	Desert Coyote Brush	1 gal.	36" o.e.
	<i>Cercis occidentalis</i>	Eastern Redbud	From Plant	24" o.e.
	<i>Fuchsia ovata 'Misses'</i>	Blue Fuchsia	From Plant	12" o.e.
	<i>Helleborus scaberrimus</i>	Coastal	5 gal./shaded	-
	<i>Rosa banksia</i>	Lady Banks' Rose	5 gal./shaded	36" o.e.
	<i>Yucca schottlandii</i>	Parsons' Red	1 gal.	24" o.e.
	<i>Verbena rigida</i>	Verbena	From Plant	18" o.e.
	5" Rock Malt			Used throughout
	Decorative Rock/Block Malt			
	5" Rock Malt			

NOTES:
 PLANT MATERIAL MAY BE ADDED TO OR REMOVED FROM PLANTING LEGEND, SUBJECT TO APPROVAL BY THE CITY OF APPLE VALLEY.
 LANDSCAPE PLANS AND INSTALLATIONS SHALL ADHERE TO CITY DESIGN GUIDELINES, CODES AND REGULATIONS.
 LANDSCAPE AREAS SHALL BE PROVIDED WITH AN AUTOMATIC IRRIGATION SYSTEM.
 LANDSCAPE SHALL BE PERMANENTLY MAINTAINED.

LANDSCAPE AREA

TOTAL SITE AREA:	30.14 ACRES
TOTAL BUILDING AREA:	514 ACRES
TOTAL LANDSCAPE AREA:	6.64 ACRES
LANDSCAPE PERCENTAGE (WITH BLDG. AREA):	21.9%
LANDSCAPE PERCENTAGE (LESS BLDG. AREA):	29.55%

FIGURE 8

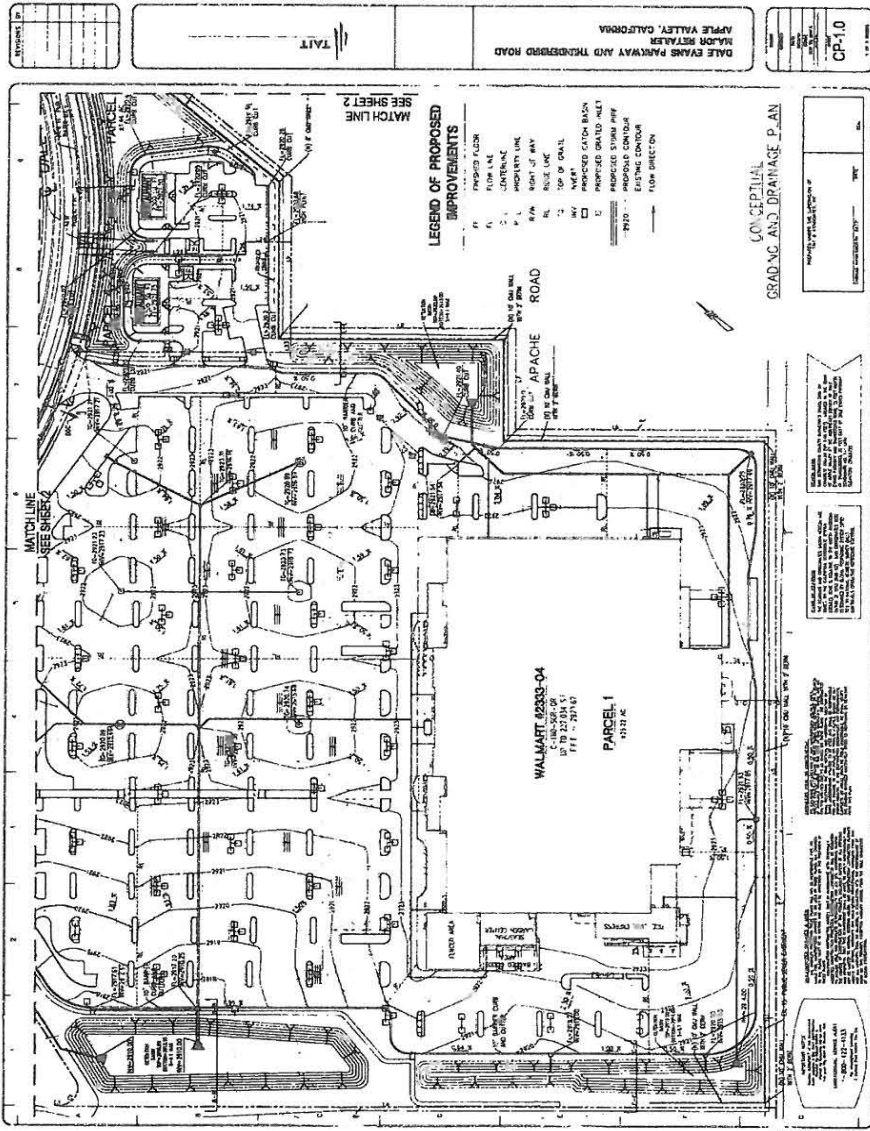


FIGURE 9

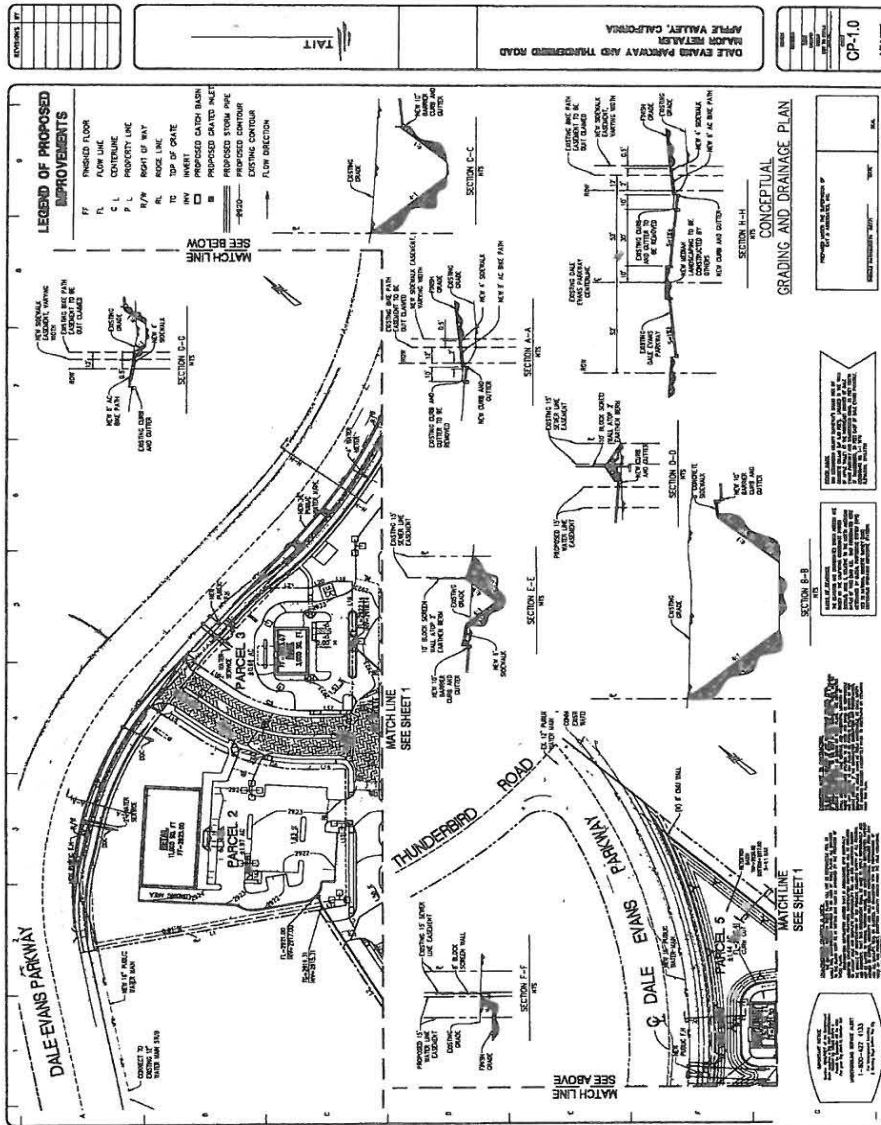


FIGURE 10

