



Get a Slice of the Apple.

**TOWN OF APPLE VALLEY
PLANNING COMMISSION AGENDA
REGULAR MEETING
WEDNESDAY, NOVEMBER 5, 2014 – 6:00 P.M.**

PUBLIC PARTICIPATION IS INVITED. Planning Commission meetings are held in the Town Council Chambers located at 14955 Dale Evans Parkway, Apple Valley, California. If you wish to be heard on any item on the agenda during the Commission's consideration of that item, or earlier if determined by the Commission, please so indicate by filling out a "REQUEST TO SPEAK" form at the Commission meeting. Place the request in the Speaker Request Box on the table near the Secretary, or hand it to the Secretary at the Commission meeting. (G.C. 54954.3 {a}).

Materials related to an item on this agenda, submitted to the Commission after distribution of the agenda packet, are available for public inspection in the Town Clerk's Office at 14955 Dale Evans Parkway, Apple Valley, CA during normal business hours. Such documents are also available on the Town of Apple Valley website at www.applevalley.org subject to staff's ability to post the documents before the meeting.

The Town of Apple Valley recognizes its obligation to provide equal access to those individuals with disabilities. Please contact the Town Clerk's Office, at (760) 240-7000, two working days prior to the scheduled meeting for any requests for reasonable accommodations.

REGULAR MEETING

The Regular meeting, open to the public, will begin at 6:00 p.m.

CALL TO ORDER

ROLL CALL

Commissioners: Lamoreaux_____; Shoup_____; Tinsley_____
Vice-Chairman Qualls_____; and Chairman Kallen_____)

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

1. Minutes for the Regular Meeting of October 1, 2014.

PUBLIC HEARING ITEMS

2. **Conditional Use Permit No. 2014-002.** A request for approval of a Conditional Use Permit to allow adjustments to the off-street parking requirements within an existing commercial center to accommodate the expansion of an existing restaurant.

Applicant: Peter Ghim on behalf of Il Ryun Song

Location: The project site is located at 15850 Apple Valley Road; APN 0473-151-13

Project Planner: Carol Miller, Principal Planner

Recommendation: Denial

3. **Special Use Permit 2014-007.** A request to approve a Special Use Permit to allow a BMX track, with start ramp, on a vacant parcel in conjunction with a BMX bike manufacturer for the purpose of utilizing the track for product testing.

Applicant: Bill Ryan, owner of Supercross BMX

Location: The project site is located north of 13570 Tonikan Road; APNs 3087-382-34, -35 and -36.

Project Planner: Carol Miller, Principal Planner

Recommendation: Approval

PUBLIC COMMENTS

Anyone wishing to address an item not on the agenda, or an item that is not scheduled for a public hearing at this meeting, may do so at this time. California State Law does not allow the Commission to act on items not on the agenda, except in very limited circumstances. Your concerns may be referred to staff or placed on a future agenda.

PLANNING COMMISSION COMMENTS

STAFF COMMENTS

OTHER BUSINESS

ADJOURNMENT

In that there are no items scheduled for the November 19, 2014 meeting, the Planning Commission will adjourn to its next regularly scheduled meeting on December 3, 2014.

MINUTES

TOWN OF APPLE VALLEY PLANNING COMMISSION Regular Meeting Wednesday, October 1, 2014

CALL TO ORDER

At 6:03 p.m., the Regular Meeting of the Planning Commission of the Town of Apple Valley for October 1, 2014, was called to order by Chairman Kallen.

ROLL CALL

Planning Commission

Roll call was taken with the following members present: Commissioner Jason Lamoreaux, Commissioner, Mark Shoup, Commissioner B.R. "Bob" Tinsley, Vice-Chairman Doug Qualls and Chairman Bruce Kallen.

STAFF PRESENT

Carol Miller, Principal Planner; Pam Cupp, Associate Planner; Haviva Shane, Town Attorney; and Debra Thomas, Planning Commission Secretary.

PLEDGE OF ALLEGIANCE

Commissioner Shoup led the Pledge of Allegiance.

1. APPROVAL OF MINUTES

- A. Minutes for the Regular Meeting of August 20, 2014

Motion by Commissioner Lamoreaux, seconded by Commissioner Tinsley, to approve the Minutes for the Regular Meeting of July 16, 2014.

Motion carried by the following vote: Ayes: Commissioner Lamoreaux, Commissioner Shoup, Commissioner Tinsley and Vice-Chairman Qualls. Noes: None. Absent: None. Abstain: Chairman Kallen.

PUBLIC HEARING ITEMS

2. **Conditional Use Permit No. 2013-010 and Deviation No. 2014-001.** A request to approve a Conditional Use Permit to allow the construction of a seventy-five (75)-foot high wireless telecommunication facility designed as a mono-pine within a 2,500 square foot leased area. The project includes a request for approval of a Deviation Permit to allow an encroachment of approximately 321 feet into the 1,000-foot separation/setback required between wireless facilities and residential uses and zones.

Applicant: W. Bebb Francis, III on behalf of Capital Telecom Acquisition, LLC
Location: The project site is located at 13625 Manhasset Road; APN 3087-351-32

Chairman Kallen opened the public hearing at 6:04 p.m.

Ms. Pam Cupp, Associate Planner, presented the staff report as filed by the Planning Division.

Mr. W. Bebb Francis, III, on behalf of Capital Telecom Acquisition, LLC, prepared a PowerPoint presentation for the Planning Commission to show what the seventy-five (75)-foot high wireless telecommunication facility would look like in the proposed location. Mr. Francis also showed the Planning Commission other telecommunication facilities in the area that he believed to be comparable in design and location. Mr. Francis emphasized his belief that the proposed location for placement of the cell tower was crucial to the area and had an analysis showing more data access was needed in the area.

Chairman Kallen closed the public hearing at 7:14 p.m.

The Planning Commission expressed their concerns about the location and size of the proposed wireless telecommunication facility. It was the consensus of the Commission that, as proposed, the cell tower did not meet the aesthetic intent of the Town of Apple Valley's Development Code, and therefore, could not make the positive Finding required for approval at this time.

MOTION

Motion by Commissioner Tinsley, seconded by Chairman Kallen, that the Planning Commission move to:

1. Table Conditional Use Permit No. 2013-010 and Deviation No. 2014-001 until Applicant is able to work with Staff on suggested modifications to the wireless telecommunication facility.

ROLL CALL VOTE

Ayes: Commissioner Lamoreaux
Commissioner Shoup
Commissioner Tinsley
Vice-Chairman Qualls
Chairman Kallen

Noes: None

Abstain: None

Absent: None

The motion carried by a 5-0-0-0 vote.

3. **Variance No. 2014-001.** A request to allow a ninety-seven (97)-foot lot width where a 100-foot lot width, as measured at the required front building setback line, is required for proposed Lot No. 129 within Tentative Tract Map No. 16979.

Applicant: United Engineering on behalf of RMG Apple Valley & Ohna 174, LP

Location: The project site is located approximately 130 feet north of the intersection of Muni and Kasota Roads (current terminus of Kasota).

Chairman Kallen opened the public hearing at 7:34 p.m.

Ms. Carol Miller, Principal Planner, presented the staff report as filed by the Planning Division.

Mr. Beau Cooper, United Engineering Group, explained the purpose of the civil engineering work. It was determined that improvements on the adjacent lot to the south were installed across the northerly property line and the dwelling is encroaching into the required side yard setback. The requested Variance will shift the property line to correct the situation.

Darryl, Apple Valley, CA, is the subject property owner. He explained to the Planning Commission that, when he moved to the property in 2005, he asked the builder to mark the four (4) corners in order to build a retaining wall to house his animals and the current situation was the end result.

Chairman Kallen closed the public hearing at 7:42 p.m.

MOTION:

Motion by Vice-Chairman Qualls, seconded by Commissioner Lamoreaux, that the Planning Commission move to:

1. Determine that the project is not anticipated to have any direct or indirect impact upon the environment, as it has been determined that the proposed request is Exempt from further environmental review.
2. Find the facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve Variance No. 2014-001 and direct staff to file a Notice of Exemption.

ROLL CALL VOTE

Ayes: Commissioner Lamoreaux
Commissioner Shoup
Commissioner Tinsley
Vice-Chairman Qualls
Chairman Kallen

Noes: None
Abstain: None
Absent: None

The motion carried by a 5-0-0-0 vote.

PUBLIC COMMENTS

Tom Mullen, Apple Valley, CA, explained to the Planning Commission that he lives on Riverside Drive in Apple Valley and also has five (5) acres of land across the street from his home. He approached the Planning Department to discuss his plans to put up a fence on the five (5) acres to confine his horses; however, the Planning Department

advised him that he could not keep his horses on the property unless there was a dwelling on the property. He asked the Planning Commission for guidance on how to address the Planning Department's concerns and how he can house his horses without a dwelling on the property.

PLANNING COMMISSION COMMENTS

Commissioner Lamoreaux received a package from Southern California Edison regarding information on a project they want to share with the Planning Commission. In addition, Commissioner Lamoreaux wanted to express his concerns about a potential candidate placing multiple political signs on one (1) parcel.

Ms. Haviva Shane will send the Planning Commission information regarding election signs. The Commission may schedule the subject as an agenda item in the future.

Vice-Chairman Qualls wished Commissioner Shoup a Happy Birthday and welcomed him to the to the seniors club.

Chairman Kallen encouraged the Planning Commissioners to support their candidates wholeheartedly for the upcoming election but suggested they be careful not to represent their individual support as speaking for the Planning Commission as a whole.

STAFF COMMENTS

None.

ADJOURNMENT

Motion by Commissioner Tinsley, seconded by Commissioner Lamoreaux, and unanimously carried to adjourn the meeting of the Planning Commission at 7:53 p.m. to the Regular Meeting on November 5, 2014.

Respectfully Submitted by:

Debra Thomas
Planning Commission Secretary

Approved by:

Chairman Bruce Kallen



TOWN OF APPLE VALLEY PLANNING COMMISSION

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Staff Report

- AGENDA DATE:** November 5, 2014
- CASE NUMBER:** Conditional Use Permit No. 2014-002
- APPLICANT:** Peter Ghim on behalf of Il Ryun Song
- PROPOSAL:** A request for approval of a Conditional Use Permit to allow adjustments to the off-street parking requirements within an existing commercial center to accommodate the expansion of an existing restaurant.
- LOCATION:** The project site is located at 15850 Apple Valley Road; APN 0473-151-13.
- ENVIRONMENTAL DETERMINATION:** Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed adjustment to off-street parking, may have a significant effect on the environment, the activity is not subject to CEQA.
- CASE PLANNER:** Ms. Carol Miller, Principal Planner
- RECOMMENDATION:** Denial

PROJECT AND SITE DESCRIPTION:

- A. Existing Site Characteristics:
The subject site is a 1.47-acre site developed with a 19,664 square-foot commercial building, ninety-four (94) parking spaces and landscaping.
- B. General Plan Designations:
Project Site - General Commercial (C-G)
North - General Commercial (C-G)
South - General Commercial (C-G)

East - General Commercial (C-G)
West - General Commercial (C-G)

C. Surrounding Zoning and Land Use:

Project Site - General Commercial (C-G), Commercial center
North - General Commercial (C-G), Gasoline station and National Guard facility
South - General Commercial (C-G), County Flood Control channel
East - General Commercial (C-G), Fast food restaurants
West - General Commercial (C-G), County Flood Control channel

ANALYSIS:

A. General:

The Development Code allows the adjustment of off-street parking subject to Planning Commission approval of a Conditional Use Permit. The burden of proof for the reduction in required off-street parking and documentation substantiating the request lies with the applicant. In granting parking reductions for the shared use of parking facilities, the Planning Commission is only required to make at least one of three findings.

B. Background

The Planning Commission approved the Development Permit No. 2005-021 for the commercial center in 2006. The staff report identified concerns over the amount of parking based on the applicant's proposal of ninety-four (94) spaces. Because the proposed building was less than 25,000 square feet of gross floor area, the Parking Code shopping center standards did not apply as used by the applicant to determine their parking calculations. At the time, the floor plan allocated approximately 3,200 square feet of the building to restaurant uses. Based on the ratio for a restaurant and retail, staff felt that the overall parking requirement of 104 parking spaces was a more accurate representation of the needed parking for the center where ninety-four (94) spaces was being provided. A Condition of Approval (P18) was placed on the project that required a parking analysis with each restaurant tenant improvement plan check and square footage could be restricted due to the amount of available parking. To date, the area devoted to a restaurant use within the center is 1,498 square-feet, which the applicant proposes to increase an additional 1,786 square feet.

In 2008, a Special Use Permit was approved for a neighborhood fitness center within the center based on a Planning Commission approved Code interpretation regarding the parking requirement for neighborhood fitness centers. In 2010, an amendment to the SUP was approved that allowed an expansion of the fitness center. In each instance, a parking analysis was prepared that demonstrated sufficient parking in accordance with Code standards. During the research and analysis for this request, it was discovered that two (2) certificates of occupancy were issued in error that has created a parking deficit of four (4) parking spaces. While this is not an issue currently because of the vacancy in units, it could become an issue when they are leased.

C. Parking Analysis:

As indicated above the center currently maintains a parking deficit of four (4) spaces. To allow the existing restaurant to expand by an additional 1,786 square feet and assuming a split on customer and non-customer area, the restaurant would require at a minimum nineteen (19) parking spaces where seven (7) spaces are required for retail. This increases the deficit to fifteen (15) spaces. The table below indicates the parking demand by use. Without a floor plan for the restaurant expansion, the parking demand for the restaurant is an estimate.

As shown in the tables below, two (2) of the units are unoccupied. Although the units are unoccupied, the parking demands based on retail are accounted for throughout the analysis. With the units unoccupied, it currently frees up fifteen (15) parking spaces. Once occupied in the future it is unknown how this will factor into the adjustment in the off-street parking should the Commission approve the CUP.

Parking Demand

Unit Number	Tenant	Square-footage	Parking Requirement
102	Taekwondo	2,930	14
116 & 119	Ninja Sushi	3,284	38
117	Nail Salon	1,063	8
118A	Dry Cleaner	750	3
118B	Verizon	1,545	5
120	Vacant Unit	1,771	7
121	Vacant Unit	2,023	8
122-125	Apple Valley Fitness	5,349	26
		Total	109
		Parking Provided	94

The applicant provided a listing of tenant's hours of operation and peak hours as modified by staff based on research. With the exception of the Taekwondo studio, which is not open on weekends, the mix of tenants all have similar operating hours in the evenings Monday thru Friday. Based on the different operating hours on the weekend with the closure of the Taekwondo and the earlier closing time for the fitness center, sufficient parking would be available during the busier dinner time hours for the restaurant. The potential conflicts appear to be during the week in the p.m.. Lunchtime peak hours for the restaurant would have available parking due to the off peak time for the fitness center and the taekwondo facility not open until early evening.

Hours of Operation & Peak Hours

Tenant	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
AV Fitness	5 a.m.-10 p.m.	8 a.m. – 4 p.m.	Noon- 8 p.m.				
Peak Hrs	5-7 p.m.						
Taekwondo	5 -7:30 p.m.	4:30-8 p.m.	4:30-8 p.m.	4:30 – 8 p.m.	5-7 p.m.	Closed	Closed
Peak Hr	5 -7:30 p.m.	4:30-8 p.m.	4:30-8 p.m.	4:30 – 8 p.m.	5-7 p.m.		
Ninja Sushi	11:30 a.m-10:30 p.m.	2 -9 p.m.					
Peak Hr	6-8 p.m.	5-7:30 p.m.					
Nail Salon	9 a.m – 7p.m.	9 a.m – 7p.m.					
Dry Cleaner	9 a.m-7 p.m.	9 a.m-5 p.m.	Closed				
Verizon	10 a.m.- 8 p.m.	1-6 p.m.					

Required Parking Spaces

Uses	Weekdays	Evening	Weekends
Taekwondo	0	14	0
Ninja Sushi	38	38	38
Nail Salon	8	8	8
Dry Cleaner	3	3	0
Verizon	5	5	5
Vacant	7	7	7
Vacant	8	8	8
Apple Valley Fitness	13	26	26
<i>Total</i>	82	109	92
<i>Parking Provided</i>	94	94	94

The table above indicates the total number of parking spaces that are required when the different uses are operational or at their peak times. Based on the above analysis, staff is of the opinion that the proposed expansion of the restaurant would not have a detrimental parking effect most of the time; however, there is the potential during the evening hours to have a detrimental parking effect. If this occurs, the impact of the lack of sufficient parking would affect the adjacent parcel, developed with two (2) fast food restaurants. It is for this reason staff cannot support of the request.

The Code requires that in granting parking reductions for the shared use of parking facilities, the Planning Commission is required to make at least one of three findings. When considering these findings some argument can be made in support but in all cases the arguments are not strong arguments.

The following are the findings in granting parking reductions for the shared use of parking facilities, the Planning Commission shall make at least one of the following findings:

1. The traffic report justifies the requested parking reduction based upon the presence of two or more adjacent land uses which, because of their substantially different operating hours and/or difference in peak parking characteristics, will allow joint use of the same parking facilities; or

Comment: The applicant has provided documentation that shows some offset in operational hours but overall the operating hours of the mix of tenants is very similar.

2. The traffic report indicates that there are public transportation facilities and/or pedestrian circulation opportunities which justify the requested reduction of parking facilities; or

Comment: The applicant has provided a bus schedule and bus route map, which indicates that the center is within 150 feet of a bus stop that runs from 6:00 a.m. to 8:30 p.m..

3. The traffic report finds that the clustering of land uses is such that a reduced number of parking spaces can serve multiple trip purposes to the area in question.

Comment: Given the mix of tenants within the center, there is probably some instance where patrons of other shops patronize the restaurant. However, there no evidence on to what degree this occurs.

C. Noticing:

The project was legally noticed in the Apple Valley News on October 24, 2015.

RECOMMENDATION:

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

1. Find that pursuant to the California environmental Quality Act (CEQA), the proposed request is Exempt from further environmental review.
2. Find the Facts presented in the staff report do not support the required Findings for approval for Conditional Use Permit No. 2014-002.

Prepared By:

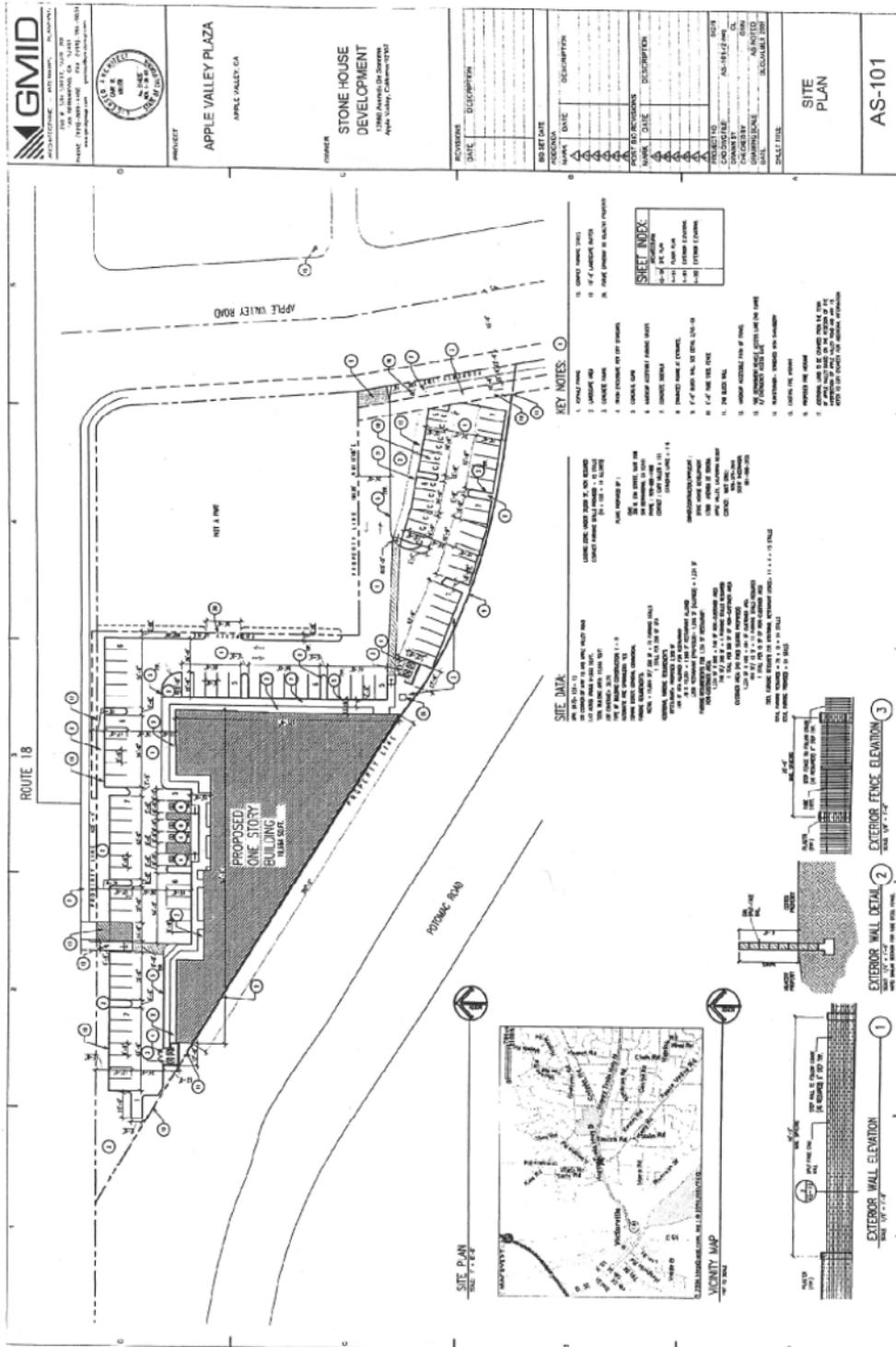
Reviewed By:

Carol Miller
Principal Planner

Lori Lamson
Assistant Town Manager

ATTACHMENTS:

1. Site Plan
2. Zoning Map





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TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

- AGENDA DATE:** November 5, 2014
- CASE NUMBER:** Special Use Permit No. 2014-007
- APPLICANT:** Bill Ryan (Supercross BMX) on behalf of Jim Hillebrandt
- PROPOSAL:** A request for approval of a Special Use Permit to allow a BMX track with start ramp on a vacant parcel in conjunction with a BMX bike manufacture for the purposes of utilizing the track for product development and testing.
- LOCATION:** The project site is located north of 13570 Tonikan Road and APNs 3087-382-34, -35, -36.
- ENVIRONMENTAL DETERMINATION:** Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed adjustment to off-street parking, may have a significant effect on the environment, the activity is not subject to CEQA.
- CASE PLANNER:** Ms. Carol Miller, Principal Planner
- RECOMMENDATION:** Approval

PROJECT AND SITE DESCRIPTION:

- A. Existing Site Characteristics:
The subject site is comprised of four (4) parcels totaling approximately four (4) acres. Three of the parcels are developed with the BMX track, while the fourth parcel is developed with a manufacturing building with the start ramp located to the rear. The track site is secured by existing chain link fencing with slating for screening.
- B. General Plan Designations:
Project Site - Service Commercial (C-S)

North - Service Commercial (C-S)
South - Service Commercial (C-S)
East - Service Commercial (C-S)
West - Service Commercial (C-S)

C. Surrounding Zoning and Land Use:

Project Site - Service Commercial (C-S), BMX track
North - Service Commercial (C-S), Commercial building
South - Service Commercial (C-S), Commercial building
East - Service Commercial (C-S), Commercial and truck parking
West - Service Commercial (C-S), Commercial building and mobile home park

ANALYSIS:

A. General:

The applicant is requesting approval of a Special Use Permit to allow the BMX track. The applicant is presently using the site as a test track related to his business. Pursuant to the Development Code, a test track is not specifically listed as a permitted use, but given the ancillary use to a manufacturer, staff determined that such a use might be appropriate subject to a Special Use Permit with Planning Commission approval. This process allows the Commission an opportunity to review the proposal and apply conditions of approval as appropriate to insure the project meets the standards of the Town and not an impact to the commercial area.

The request stems from a Code Enforcement action for the grading of the site and construction of a structure without the benefit of a building permit.

B. Analysis:

The test track encompasses three (3) vacant parcels, with the start ramp located behind the manufacturing building. The same property owner owns all parcels.

The use is ancillary to the bike manufacturer. Staff has included a Condition of Approval No. P7 that if at any point the bike manufacturer no longer occupies the adjacent building, the track and start ramp shall be removed. This will insure that the track does not become an attractive nuisance.

The applicant indicates that the track is related to the business and not open to the public. Without sufficient parking, etc, to accommodate the public use, the track may not be used for activities not related to the business. Staff has included a Condition of Approval No. P6, that prohibits the track being used by the public or non-employees of the business and be used within regular business hours.

No information was provided as to the purpose of the power poles within the track area. Since they extend well beyond the height of the screened perimeter fencing and are not esthetically pleasing within this commercial area, staff has included a Condition of Approval No. P8, requiring the power poles to be removed from the track area and if the power poles adjacent to the start ramp serve a structural purpose they must be reduced in height to that of the ramp railing, or otherwise removed. This will eliminate the potential for lights to be placed on the poles.

During the site visit, it was noted that the track area was covered in weeds. A Condition of Approval (No. P10) has been included that requires the facility to be maintained in a weed free condition.

C. Findings:

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

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

Comment: The proposed test BMX track, as conditioned, is in compliance with the Service Commercial (C-S) zoning district, the Development Code and the General Plan for the Town of Apple Valley, subject to a special use permit.

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

Comment: The proposed test BMX track, as conditioned, is in compliance with the Service Commercial (C-S) zoning district, subject to a special use permit, and based on the surrounding land uses and operating characteristics, the proposed facility is compatible with, and will not adversely affect nor be materially detrimental.

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

Comment: The test BMX track, and the recommended conditions under which it will be operated and maintained, will be compatible with the surrounding land uses, which include light industrial types of uses.

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

Comment: The test track does not require utilities.

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

Comment: The test track, and the recommended conditions under which it will be operated and maintained, will not be a harmful effect upon the surrounding land uses.

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

Comment: The test track is an ancillary use to a bike manufacture, therefore, no additional traffic will be generated that would adversely impact the adjacent street.

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

Comment: The facility is not open to the public. Therefore, there shall be no more traffic generated than what is generated for the manufacturing facility.

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

Comment: The proposed test track will not produce adverse impacts upon the sites nor the surrounding properties with adherence to the Conditions of Approval.

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

Comment: Under the State Guidelines to implement the California Environmental Quality Act (CEQA), the project is not anticipated to have any direct or indirect impact on the environment.

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

Comment: The operating characteristics of the proposed track will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan, subject to approval of a Special Use Permit and adherence to the recommended Conditions of Approval.

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

Comment: The operating characteristics of the proposed track will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan, subject to approval of a Special Use Permit and adherence to the recommended Conditions of Approval.

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

Comment: The test track is in compliance with the General Plan Land Use, subject to approval of a Special Use Permit. The test track can be operated in conformance to the Development Code subject to approval of a Special Use Permit and adherence to the recommended Conditions of Approval.

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

Comment: Based on the scope of the project proposes no new construction to unnecessarily block public views or visually dominate its surroundings. The ramp is located in between existing buildings.

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

Comment: Based on the scope of the project proposes no new construction to unnecessarily block public views or visually dominate its surroundings. The ramp is located in between existing buildings.

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

Comment: The site is currently developed with street improvements. The project proposes nothing that will impact the convenience for pedestrians, bicyclists, and motorists.

D. Noticing:

The project was legally noticed in the Apple Valley News on October 24, 2015.

RECOMMENDATION:

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

1. Find that pursuant to the California environmental Quality Act (CEQA), the proposed request is Exempt from further environmental review.
2. Find the Facts presented in the staff report support the required Findings for approval for Special Use Permit No. 2014-007.
3. Approve Special Use Permit No. 2014-007, subject to the attached Conditions of Approval.
4. Direct Staff to file the Notice of Exemption.

Prepared By:

Reviewed By:

Carol Miller
Principal Planner

Lori Lamson
Assistant Town Manager

ATTACHMENTS:

1. Recommended Conditions of Approval
2. Start Ramp Pictures
3. Site Plan (separate attachment)
4. Zoning Map

TOWN OF APPLE VALLEY

RECOMMENDED CONDITIONS OF APPROVAL

Case No. Special Use Permit No. 2014-007

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

Planning Division Conditions of Approval:

- P1. This project shall comply with the provisions of State law and the Town of Apple Valley Development Code and the General Plan. This conditional approval, if not exercised, shall expire three (3) years from the date of action of the reviewing authority, unless otherwise extended pursuant to the provisions of application of State law and local ordinance. The extension application must be filed, and the appropriate fees paid, at least sixty (60) days prior to the expiration date. The Special Use Permit becomes effective ten (10) days from the date of the decision unless an appeal is filed as stated in the Town's Development Code.
- P2. The applicant shall agree to defend at its sole expense (with attorneys approved by the Town), hold harmless and indemnify the Town, its agents, officers and employees, against any action brought against the Town, its agents, officers or employees concerning the approval of this project or the implementation or performance thereof, and from any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of this obligation under this condition.
- P3. The approval of Special Use Permit No. 2014-007 by the Planning Commission is recognized as acknowledgment of Conditions of Approval by the applicant, unless an appeal is filed in accordance with Section 9.12.250, *Appeals*, of the Town of Apple Valley Development Code.
- P4. It is the sole responsibility of the applicant on any Permit, or other appropriate discretionary review application for any structure to submit plans, specifications and/or illustrations with the application that will fully and accurately represent and portray the structures, facilities and appurtenances thereto that are to be installed or erected if approved by the Commission. Any such plans, specifications and/or illustrations that are reviewed and approved by the Planning Commission at an advertised public hearing shall accurately reflect the structures, facilities and appurtenances expected and required to be installed at the approved location without substantive deviations, modifications, alterations, adjustments or revisions of any nature.
- P5. No deviation, modification, alteration, adjustment or revision to or from the appearance, location, fixtures, features or appurtenances thereto of any type or extent shall be approved without said changes being first submitted to the Planning Commission for consideration and approval. Said review shall not rise to the level of a revision to the original Permit or other discretionary review, therefore necessitating a new public

- hearing, but shall, instead, constitute a clarification of the Planning Commission's original approval.
- P6. If at any point the bike manufacturer no longer occupies the adjacent building, the applicant or property owner shall remove the track and start ramp within thirty (30) days.
 - P7. The track shall not be open to the public or non-employees of the business and only be used within business hours.
 - P8. Prior to the issuance of a permit the power poles shall be removed from the track area and if the power poles adjacent to the start ramp serve a structural purpose they must be reduced in height to that of the ramp railing, or otherwise removed.
 - P9. The necessary building permits shall be obtained within thirty (30) days of the Commission's action.
 - P10. The track shall be maintained in a weed free condition.
 - P11. No other structures, other than the BMX track and start ramp is allowed, unless an amendment to the Special Use Permit is first approved by the Planning Commission.

End of Conditions



