



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** February 28, 2012

From: Lori Lamson **Item No:** 8
Assistant Director of
Community Development

Subject: DEVELOPMENT CODE AMENDMENT NO. 2011-05

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:
Move to open the public hearing and take testimony.

Close the public hearing. Then:

1. **Determine** that, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined 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 may have a significant effect on the environment, the activity is EXEMPT from further CEQA review.
2. **Find** the facts presented within the staff report support the required Findings for approval of an amendment to the Development Code and adopt the Findings.
3. **Find** that the proposed Town Council Ordinance is consistent with the Goals and Objectives of the adopted Town of Apple Valley General Plan and that it is necessary to preserve the health, safety and general welfare of the citizens of Apple Valley.
4. **Move** to waive the reading of Ordinance No. 433 in its entirety and read by title only.
5. **Introduce** Ordinance No.433, amending Section 9.62.070.C.3 that establishes additional submittal requirements and procedures to further address health and safety related to floodplain management.
6. **Direct** staff to file a Notice of Exemption.

SUMMARY:

Following the California Department of Water Resources review of the Town's Floodplain Management Ordinance, it was determined that an amendment was necessary to meet the minimum standards of the National Flood Insurance Program. The language being proposed was recommended by the California Department of Water Resources.

ANALYSIS:

On January 18, 2012, the Planning Commission conducted a public hearing and adopted Planning Commission Resolution No. 2012-01 (attached), recommending the Council approve the attached Ordinance.

It is recommended that Section 9.62.070.C.3 be amended to add the following:

9.62.070 ADMINISTRATION

C. *Duties and Responsibilities of the Flood Plain Administrator.* The duties and responsibilities of the flood plain administrator shall include, but not be limited to the following:

3. *Notification of Other Agencies.* Whenever a watercourse is to be altered or relocated:

c. Base Flood Elevation changes dues to physical alterations:

1. Within six (6) month of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).

2. All LOMR's for flood control projects are approved prior to the issuance of Building Permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLMOR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

d. Changes in corporate boundaries:

1. Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

REQUIRED FINDINGS

An amendment to the Development Code requires that the Town Council address two required "Findings", as listed within Development Code Section 9.06.060. As presented within past staff reports, the required Findings are listed below, along with a comment addressing each, for Council consideration and approval. The Council may modify the offered comments after considering input and public testimony at the public hearing.

A. The proposed amendment is consistent with the General Plan; and

Comment: The General Plan is the blueprint for the community's future growth. Specific Goals and Objectives are provided within each of the adopted General

Plan's State mandated Elements. The proposed Development Code Amendment amends the existing Flood Hazard standards within the Town relative to areas subject to the potential for flooding. This change is consistent with the Goals and Objectives of the adopted General Plan Flooding and Hydrology Element.

- B. The proposed amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Comment: The proposed Development Code Amendment will establish additional submittal requirements and procedures to further address health and safety related to flooding within the Town of Apple Valley. These procedures are proposed with the specific intent of informing FEMA of physical changes or boundary changes. Therefore, the Amendment will not be detrimental to the health, safety or general welfare of the citizens or visitors of the Town of Apple Valley.

NOTICING

Development Code Amendment No. 2011-05 was advertised as a public hearing in the Apple Valley News newspaper on February 17, 2012 as required under Development Code Section 9.13.030 "Notice of Public Hearings".

ENVIRONMENTAL REVIEW

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. As with the proposed amendment that will only result in a minor change to the Code, where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.

RECOMMENDATION

Following receipt of public input and discussion by the Council, it is recommended that the Council approve the attached Ordinance to amend Title 9 "Development Code" of the Town of Apple Valley Municipal Code.

FISCAL IMPACT:

Not Applicable

Attachments:

Ordinance No. 433

Planning Commission staff report dated January 18, 2012

Minute Excerpt from Planning Commission meeting of January 18, 2012

ORDINANCE NO. 433

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DETERMINING THAT DEVELOPMENT CODE AMENDMENT No. 2011-05 IS EXEMPT FROM FURTHER ENVIRONMENTAL REVIEW AND AMEND TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING SECTION 9.62.070.C.3 AS IT RELATES TO FLOODPLAIN MANAGEMENT

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

Section 1. Recitals.

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

(ii) Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

(iii) Specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending 9.62.070.C.3 as it relates to floodplain management; and

(iv) On February 17, 2012, Development Code Amendment No. 2011-05 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

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

(vi) On January 18, 2012, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2011-05, receiving testimony from the public; and

(vii) Development Code Amendment No. 2011-05 is consistent with Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley and shall promote the health, safety and general welfare of the citizens of the Town of Apple Valley.

Section 2. Findings.

(i) Find that the changes proposed by Development Code Amendment No. 2011-05 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

(ii) Find that, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be seen with certainty that the proposed Development Code Amendment No. 2011-05 is not anticipated to have a direct, adverse impact upon the environment and, therefore, is EXEMPT from further environmental review.

Section 3. Section 9.62.070.C.3 be amended to add the following:

9.62.070 ADMINISTRATION

C. ***Duties and Responsibilities of the Flood Plain Administrator.*** The duties and responsibilities of the flood plain administrator shall include, but not be limited to the following:

3. ***Notification of Other Agencies.*** Whenever a watercourse is to be altered or relocated:

c. Base Flood Elevation changes dues to physical alterations:

1. Within six (6) month of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).

2. All LOMR's for flood control projects are approved prior to the issuance of Building Permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLMOR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

d. Changes in corporate boundaries:

1. Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

Section 4. Invalidation. The amendment by this Ordinance of Title 9 "Development Code" of the Town of Apple Valley Municipal Code as previously in effect, or of any other prior enactment, shall not be construed to invalidate any entitlement exercised or proceeding taken pursuant to such Title or other enactment while the same was in effect.

Section 5. 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 6. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 7. Severability. If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications and, to this end, the provisions of this Ordinance are declared to be severable.

ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk
this 13th day of March, 2012.

Honorable Barb Stanton, 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



TOWN OF APPLE VALLEY PLANNING COMMISSION

Get a Slice of the Apple.

STAFF REPORT

- AGENDA DATE:** January 18, 2012
- CASE NUMBER:** Development Code Amendment No. 2011-05
- APPLICANT:** Town of Apple Valley
- PROPOSAL:** A request to consider an Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code, amending Section 9.62.070.C.3 of the Code, relating to floodplain management.
- LOCATION:** Town Wide
- EXISTING GENERAL PLAN DESIGNATIONS:** All Land Use designations
- EXISTING ZONING:** All Zoning designations
- 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 Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.
- PROJECT PLANNER:** Ms. Carol Miller, Senior Planner
- RECOMMENDATION:** Adopt Planning Commission Resolution No. 2012-01

Background and Analysis

Following the California Department of Water Resources review of the Town's Floodplain Management Ordinance, it was determined that an amendment was necessary to meet the minimum standards of the National Flood Insurance Program. The language being proposed was recommended by the California Department of Water Resources staff; therefore, the proposed amendment is consistent with the State's Floodplain Management Model Ordinance.

It is recommended that Section 9.62.070.C.3 be amended to add the following:

9.62.070 ADMINISTRATION

C. ***Duties and Responsibilities of the Flood Plain Administrator.*** The duties and responsibilities of the flood plain administrator shall include, but not be limited to the following:

3. ***Notification of Other Agencies.*** Whenever a watercourse is to be altered or relocated:

c. Base Flood Elevation changes dues to physical alterations:

1. Within six (6) month of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).

2. All LOMR's for flood control projects are approved prior to the issuance of Building Permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLMOR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

d. Changes in corporate boundaries:

1. Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

FINDINGS:

An Amendment to the Development Code requires that the Planning Commission address two (2) required "Findings", as listed within Development Code Section 9.06.060. For Commission consideration, the required Findings are listed below, along with a comment addressing each. If the Commission concurs with these comments, it may be adopt and forward its recommendation to the Council for consideration of the Development Code Amendment. If the Commission wishes to modify the offered comments, after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment recommendations can be included into the information forwarded to the Council for consideration.

A. The proposed Amendment is consistent with the General Plan; and

Comment: The General Plan is the blueprint for the community's future growth. Specific Goals and Objectives are provided within each of the adopted General Plan's State mandated Elements. The proposed Development Code Amendment amends the existing Flood Hazard standards within the Town relative to areas subject to the potential for flooding. This change is consistent with the Goals and Objectives of the adopted General Plan Flooding and Hydrology Element.

B. The proposed Amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Comment: The proposed Development Code Amendment will establish additional submittal requirements and procedures to further address health and safety related to flooding within the Town of Apple Valley. These procedures are proposed with the specific intent of informing FEMA of physical changes or boundary changes. Therefore, the Amendment will not be detrimental to the health, safety or general welfare of the citizens or visitors of the Town of Apple Valley.

NOTICING

Development Code Amendment No. 2011-05 was advertised as a public hearing in the Apple Valley News newspaper on January 6, 2012.

ENVIRONMENTAL REVIEW

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 Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.

RECOMMENDATION

Following receipt of public input and discussion by the Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2012-01, forwarding a recommendation that the Town Council amend Title 9 "Development Code" of the Town of Apple Valley Municipal Code, as outlined within the staff report.

Prepared By:

Reviewed By:

Carol Miller
Senior Planner

Lori Lamson
Assistant Director of Community Development

ATTACHMENT:

1. Planning Commission Resolution No. 2012-01

PLANNING COMMISSION RESOLUTION NO. 2012-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL AMEND TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING SECTION 9.62.070.C.3 RELATING TO FLOODPLAIN MANAGEMENT

WHEREAS, Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on April 28, 2010; and

WHEREAS, Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

WHEREAS, specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending Section 9.62.070.C.3 of the Code; and

WHEREAS, on January 6, 2012, Development Code Amendment No. 2011-05 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined 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 may have a significant effect on the environment, the activity is EXEMPT from further CEQA review; and

WHEREAS, on January 18, 2012, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2011-05, receiving testimony from the public; and

WHEREAS, Development Code Amendment No. 2011-05 is consistent with Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley and shall promote the health, safety and general welfare of the citizens of the Town of Apple Valley.

NOW, THEREFORE, BE IT RESOLVED that in consideration of the evidence presented at the public hearing, and for the reasons discussed by the Commissioners at said hearing, the Planning Commission of the Town of Apple Valley, California, does hereby resolve, order and determine as follows and recommends that the Town Council make the following findings and take the following actions:

Section 1. Find that the changes proposed by Development Code Amendment No. 2011-01 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

Section 2. Pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the Code amendment 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, as with the proposed Code Amendment, that there is no possibility that the proposal approved under Development

Code Amendment No. 2011-01 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend Section 9.62.070.C.3 be amended to add the following:

9.62.070 ADMINISTRATION

C. ***Duties and Responsibilities of the Flood Plain Administrator.*** The duties and responsibilities of the flood plain administrator shall include, but not be limited to the following:

3. ***Notification of Other Agencies.*** Whenever a watercourse is to be altered or relocated:

c. Base Flood Elevation changes dues to physical alterations:

1. Within six (6) month of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).

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Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

d. Changes in corporate boundaries:

1. Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 18th day of January, 2012.

Chairman B. R. "Bob" Tinsley

ATTEST:

I, Debra Thomas, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 18th day of January, 2012 by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ms. Debra Thomas, Planning Commission Secretary