



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council Date: August 11, 2015

From: Lori Lamson, Assistant Town Manager Item No: 10

Subject: A REQUEST TO CONSIDER AN AMENDMENT TO TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE AMENDING CHAPTER 9.25 "DEVIATION PERMITS" AND CHAPTER 9.35 "COMMERCIAL DISTRICTS" AS IT PERTAINS TO ALLOWING A REDUCTION IN LANDSCAPING AND SETBACK REQUIREMENTS FOR THE DEVELOPMENT OF SUBSTANDARD COMMERCIAL LOTS

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), the project is exempt from environmental review because 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.
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. 473 in its entirety and read by title only.

5. **Introduce** Ordinance No. 473, revising Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending Chapter 9.25 "Deviation Permits" and Chapter 9.35 "Commercial Districts" as it pertains to allowing a reduction in landscaping and setback requirements for the development of substandard commercial lots
6. Direct staff to file a Notice of Exemption.

SUMMARY:

On June 9, 2015, the Town Council initiated a Development Code Amendment regarding providing relief of landscaping and setback standards for sub-standard commercial lots due to the development impacts related to the American Disabilities Act (ADA) requirements and Town landscape requirements. On July 1, 2015, the Planning Commission adopted Planning Commission Resolution No. 2015-006 recommending an amendment to the Development Code as it pertains to this issue.

Standard commercial lots have a minimum lot size of 7,500 square feet, a minimum lot width of seventy-five (75) feet and a minimum lot depth of one hundred (100) feet. There are several areas of the Town where there are existing subdivisions of sub-standard commercial lots. One of the areas impacted is the Desert Knolls area where the predominant type of new development is medical office. In Desert Knolls, in addition to the sub-standard lot size, there can be pre-recorded setbacks of up to seventy (70) feet for the front and twenty-five (25) feet in the rear. Typically these lots are 6,000 square feet in size.

ADA requirements necessitate a four (4) foot wide pathway from the building entrance to the street sidewalk that is separated from the parking area. Driveway width and parking stall length limit the parking lot configuration. Due to the limited options in parking lot configuration, this typically puts the ADA pathway on one (1) side of the lot. Five (5) foot landscape setbacks are required on each side of the lot to provide a buffer from the property line. Parking can occur in the rear of the building provided that there is an alley for access.

Once all these requirements are considered, the building envelope for the footprint of the commercial structure can prove to be quite limiting. State regulations on the size and types of amenities within new medical offices can prove to be difficult to provide within the restricted building footprint. These requirements can include exam room size, room for equipment and sinks for every exam room, waiting room size, etc.

The Town's economic development strategy for this area has been focused on the attraction of medical offices. This strategy is proving to be difficult due to the constraints provided by all the issues discussed.

A modification to the landscape requirements and setbacks through a Deviation Permit process could provide enough flexibility in the development of the lot. Deviation Permits are reviewed administratively and approved by the Director. Other alternatives could include the reduction of the interior side and rear building setbacks. These suggested alternatives could be done administratively, as long as findings and standards are included for the deviation of development standards for substandard commercial lots.

ANALYSIS:

The Planning Commission recommends the following amended language as identified by strike-through text for deletions and underlined text for additions. In addition to this language, references to this new provision are also included in within the amended Code language.

CHAPTER 9.25 Deviation Permits

9.25.030 Standards

The Director may grant a Deviation Permit for only the following minor exceptions to the Development Code:

- A.** A maximum twenty (20) percent reduction in lot area, lot dimensions or setbacks for Commercial and Industrial Districts.
- B.** A maximum ten (10) percent reduction for interior side setbacks and a twenty (20) percent reduction for rear setbacks in Residential Districts.
- C.** A maximum twenty (20) percent increase in the height of fences.
- D.** In the Commercial and Industrial Districts, a porte-cochere open on three sides may encroach up to fifty (50) percent, but not less than twenty-five (25) feet from the front property line.
- E.** For substandard commercial lots in all Commercial Districts, deviations to one or all of the following standards may be allowed:
 - 1. Reduction of landscape planter width in areas adjacent to parking areas or drive aisles up to a minimum of two (2) feet in width. (Section 9.72.060.B.8.a and b)
 - 2. Reduction in the minimum landscape area of the site from ten (10) percent to no less than five (5) percent. (Section 9.35.040.A.14)
 - 3. Maximum ten (10) percent reduction for interior side setbacks and a twenty (20) percent reduction for rear setbacks.

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, they may be adopted and forwarded to the Council for its consideration of the

Development Code Amendment. If the Commission wishes modifications to 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. Many of these stated Goals and Objectives address the community's ability to promote and strengthen the commercial development to improve the local economy, while enhancing the quality of life. Providing some flexibility in the development standards of commercial development on substandard lots, enables development to meet required standards of the American Disabilities Act and provisions within the Building Code, while providing quality development that enhances the economy and the Town.

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

Comment: Amending the Code as proposed under Development Code Amendment No. 2015-003 will modify the Town's provisions relative to the ability to administratively modify the required landscape buffers and setbacks on substandard commercial lots through the implementation of a Deviation Permit. Findings to approve the Deviation Permit require that the proposed deviation will not be materially detrimental to public health, safety and welfare or injurious to the property or improvements in the vicinity and land use district in which the property is located.

NOTICING:

Development Code Amendment No. 2015-003 was advertised as a public hearing in the Apple Valley News newspaper on June 31, 2015.

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.

FISCAL IMPACT:

Not Applicable

ATTACHMENTS:

1. Ordinance No. 473
2. Planning Commission Staff Report from July 1, 2015
3. Planning Commission Resolution No. 2015-006

ORDINANCE NO. 473

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING CHAPTER 9.25 "DEVIATION PERMITS" AND CHAPTER 9.35 "COMMERCIAL DISTRICTS" AS IT PERTAINS TO ALLOWING A REDUCTION IN LANDSCAPING AND SETBACK REQUIREMENTS FOR THE DEVELOPMENT OF SUBSTANDARD COMMERCIAL LOTS

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

WHEREAS, 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 to Chapter 9.25 "Deviation Permits" and Chapter 9.35 "Commercial Districts" as it pertains to allowing a reduction in landscaping and setback requirements for the development of substandard commercial lots; and

WHEREAS, 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; and

WHEREAS, on July 1, 2015, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2015-003, receiving testimony from the public and adopting Planning Commission Resolution No. 2015-006 forwarding a recommendation to the Council; and

WHEREAS, on August 11, 2015, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearings on Development Code Amendment No. 2015-003, receiving testimony from the public.

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

Section 1. Find that the changes proposed by Development Code Amendment No. 2015-003 is 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. 2015-003 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend Section 9.25.030 "Standards" of Chapter 9.25 "Deviation Permits" of the Development Code to add subsection E. as follows:

- E.** For substandard commercial lots in all Commercial Districts, deviations to one or all of the following standards may be considered:
1. Reduction of landscape planter width in areas adjacent to parking areas or drive aisles up to a minimum of two (2) feet in width. (Section 9.72.060.B.8.a and b)
 2. Reduction in the minimum landscape area of the site from ten (10) percent to no less than five (5) percent. (Section 9.35.040.A.14)
 3. Maximum ten (10) percent reduction for interior side setbacks and a twenty (20) percent reduction for rear setbacks.

Section 4. Amend Section 9.72.060.B by amending paragraphs a and b of subsection 8 to include references at the end of the paragraph that state the following:

- a. ...Refer to Section 9.25.030.E for deviations to this requirement.
- b. ...Refer to Section 9.25.030. E for deviations to this requirement.

Section 5. Amend Section 9.35.040 A by amending footnote (11) to include a reference at the end of the footnote that states the following:

(11) ... Refer to Section 9.25.030. E for deviations to this requirement.

Section 6. Amend Section 9.35.040 A by amending footnote (3) to include a reference at the end of the footnote that states the following:

(3) ... Refer to Section 9.25.030. E for deviations to this requirement.

Section 7. 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 8. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 9. 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.

APPROVED and **ADOPTED** by the Town Council and signed by the Mayor and attested to by the Town Clerk this 25th day of August, 2015.

Larry Cusack, Mayor

ATTEST:

La Vonda M. Pearson, Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

John Brown, Town Attorney

Frank Robinson, Town Manager



Get a Slice of the Apple.

Agenda Item No. 3

TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

AGENDA DATE:	July 1, 2015
CASE NUMBER:	Development Code Amendment No. 2015-003
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 Chapter 9.25 "Deviation Permits" and Chapter 9.35 "Commercial Districts" as it pertains to allowing a reduction in landscaping and setback requirements for the development of substandard commercial lots.
LOCATION:	Town-wide
EXISTING GENERAL PLAN DESIGNATIONS:	All Commercial Land Use Designations
EXISTING ZONING:	All Commercial Land Use 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. Lori Lamson, Assistant Town Manager
RECOMMENDATION:	Adopt Planning Commission Resolution No. 2015-006.

BACKGROUND & DISCUSSION

On June 9, 2015, the Town Council initiated a Development Code Amendment regarding providing relief of landscaping and setback standards for sub-standard commercial lots due to the development impacts related to the American Disabilities Act (ADA) requirements and Town landscape requirements.

Standard commercial lots have a minimum lot size of 7,500 square feet, a minimum lot width of seventy-five (75) feet and a minimum lot depth of 100 feet. There are several areas of the Town where there are existing subdivisions of sub-standard commercial lots. One of the areas impacted is the Desert Knolls area where the predominant type of new development is medical office. In Desert Knolls, in addition to the sub-standard lot size, there can be pre-recorded setbacks of up to seventy (70) feet for the front and twenty-five (25) feet in the rear. Typically these lots are 6,000 square feet in size.

ADA requirements necessitates a four (4)-foot wide pathway from the building entrance, to the street sidewalk, that is separated from the parking area. Driveway width and parking stall length limit the parking lot configuration. Due to the limited options in parking lot configuration, this typically puts the ADA pathway on one side of the lot. Five (5)-foot landscape setbacks are required on each side of the lot to provide a buffer from the property line. Parking can occur in the rear of the building provided that there is an alley for access.

Once all these requirements are considered, the building envelope for the footprint of the commercial structure can prove to be quite limiting. State regulations on the size and types of amenities within new medical offices can prove to be difficult to provide within the restricted building footprint. These requirements can include exam room size, room for equipment and sinks for every exam room, waiting room size etc.

The Town's economic development strategy for this area has been focused on the attraction of medical offices. This strategy is proving to be difficult due to the constraints provided by all the issues discussed.

A modification to the landscape requirements and setbacks through a Deviation Permit process could provide enough flexibility in the development of the lot. Deviation Permits are reviewed administratively and approved by the Director. Other alternatives could include the reduction of the interior side and rear building setbacks. These suggested alternatives could be done administratively, as long as findings and standards are included for the deviation of development standards for substandard commercial lots.

ANALYSIS

Staff is offering for the Commission's consideration the following amended language as identified by strike-through text for deletions and underlined text for additions.

CHAPTER 9.25 Deviation Permits ***9.25.030 Standards***

The Director may grant a Deviation Permit for only the following minor exceptions to the Development Code:

- A. A maximum twenty (20) percent reduction in lot area, lot dimensions or setbacks for Commercial and Industrial Districts.
- B. A maximum ten (10) percent reduction for interior side setbacks and a twenty (20) percent reduction for rear setbacks in Residential Districts.
- C. A maximum twenty (20) percent increase in the height of fences.
- D. In the Commercial and Industrial Districts, a porte-cochere open on three sides may encroach up to fifty (50) percent, but not less than twenty-five (25) feet from the front property line.
- E. For substandard commercial lots in all Commercial Districts, deviations to one or all of the following standards may be allowed:
 - 1. Reduction of landscape planter width in areas adjacent to parking areas or drive aisles up to a minimum of two (2) feet in width. (Section 9.72.060.B.8.a and b)
 - 2. Reduction in the minimum landscape area of the site from ten (10) percent to no less than five (5) percent. (Section 9.35.040.A.14)
 - 3. Maximum ten (10) percent reduction for interior side setbacks and a twenty (20) percent reduction for rear setbacks.

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, they may be adopted and forwarded to the Council for its consideration of the Development Code Amendment. If the Commission wishes modifications to 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. Many of these stated Goals and Objectives address the community's ability to promote and strengthen the commercial development to improve the local economy, while enhancing the quality of life. Providing some flexibility in the development standards of commercial development on substandard lots, enables development to meet required standards of the American Disabilities Act and provisions within the Building Code, while providing quality development that enhances the economy and the Town.

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

Comment: Amending the Code as proposed under Development Code Amendment No. 2015-003 will modify the Town's provisions relative to the ability to administratively modify the required landscape buffers and setbacks on substandard commercial lots through the implementation of a Deviation Permit. Findings to approve the Deviation Permit require that the proposed

deviation will not be materially detrimental to public health, safety and welfare or injurious to the property or improvements in the vicinity and land use district in which the property is located.

NOTICING

Development Code Amendment No. 2015-003 was advertised as a public hearing in the Apple Valley News newspaper on June 19, 2015.

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. 2015-006 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:

Lori Lamson
Assistant Town Manager

Carol Miller
Principal Planner

Attachment:
Draft Planning Commission Resolution No. 2015-006

PLANNING COMMISSION RESOLUTION NO. 2015-006

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2015-003 AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING CHAPTER 9.25 "DEVIATION PERMITS" AND CHAPTER 9.35 "COMMERCIAL DISTRICTS" AS IT PERTAINS TO REDUCING LANDSCAPING AND SETBACK REQUIREMENTS FOR THE DEVELOPMENT OF SUBSTANDARD COMMERCIAL LOTS THROUGH APPROVAL OF A DEVIATION PERMIT

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

WHEREAS, 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 comprehensively amending Chapter 9.25 "Deviation Permits" and 9.35 "Commercial Districts"; and,

WHEREAS, on June 19, 2015, Development Code Amendment No. 2015-003 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, 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; and

WHEREAS, on July 1, 2015 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2015-003, receiving testimony from the public; and

WHEREAS, Development Code Amendment No. 2015-003 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. 2015-003 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

Section 2. 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.

Section 3. Amend Section 9.25.030 "Standards" of Chapter 9.25 "Deviation Permits" of the Development Code to add subsection E. as follows:

- E.*** For substandard commercial lots in all Commercial Districts, deviations to one or all of the following standards may be considered:
1. Reduction of landscape planter width in areas adjacent to parking areas or drive aisles up to a minimum of two (2) feet in width. (Section 9.72.060.B.8.a and b)
 2. Reduction in the minimum landscape area of the site from ten (10) percent to no less than five (5) percent. (Section 9.35.040.A.14)
 3. Maximum ten (10) percent reduction for interior side setbacks and a twenty (20) percent reduction for rear setbacks.

Section 4. Amend Section 9.72.060.B by amending paragraphs a and b of subsection 8 to include references at the end of the paragraph that state the following:

- a. ...Refer to Section 9.25.030.E for deviations to this requirement.
- b. ...Refer to Section 9.25.030. E for deviations to this requirement.

Section 5. Amend Section 9.35.040 A by amending footnote (11) to include a reference at the end of the footnote that states the following:

- (11) ... Refer to Section 9.25.030. E for deviations to this requirement.

Section 6. Amend Section 9.35.040 A by amending footnote (3) to include a reference at the end of the footnote that states the following:

- (3) ... Refer to Section 9.25.030. E for deviations to this requirement.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 1st day of July, 2015.

Chairman Bruce Kallen

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 1st day of July, 2015 by the following vote, to-wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Ms. Debra Thomas, Planning Commission Secretary