



Town Council Agenda Report

Date: August 13, 2019 Item No.8

To: Honorable Mayor and Town Council

Subject: GENERAL PLAN AMENDMENT NO. 2019-001 AND DEVELOPMENT CODE AMENDMENT NO. 2019-004; AN AMENDMENT TO THE TEXT OF THE LAND USE ELEMENT OF THE GENERAL PLAN REMOVING THE REQUIREMENT FOR A MINIMUM PROJECT SIZE OF 10 ACRES WITHIN THE REGIONAL COMMERCIAL (C-R) LAND USE DEFINITION AND AN AMENDMENT TO TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE THAT WILL AMEND TABLE 9.35.040-A "SITE DEVELOPMENT STANDARDS" TO REDUCE THE MINIMUM LOT SIZE WITHIN REGIONAL COMMERCIAL (C-R) ZONING DESIGNATION FROM EIGHT (8) ACRES TO 10,000 SQUARE FEET.

From: Douglas Robertson, Town Manager

Submitted by: Lori Lamson, Assistant Town Manager

Budgeted Item: Yes No N/A

RECOMMENDED ACTION:

Move to open the public hearing and take testimony. Close the public hearing.
Then:

- A. **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.
- B. **Find** the facts presented within the staff report, including the Planning Commission staff report for June 19, 2019, support the required Findings for approval of the proposed General Plan Amendment and Development Code Amendment and adopt the Findings.

- C. **Move** to adopt Resolution No. 2019-24 amending the text of the General Plan of the Town of Apple Valley removing the requirement for a minimum project size of ten (10) acres within the Regional Commercial (C-R) Land Use.
- D. **Move** to waive the reading of Ordinance No. 512 in its entirety and read by title only.
- E. **Introduce** Ordinance No. 512 approving Development Code Amendment No. 2019-004; and
- F. **Direct** staff to file a Notice of Exemption with the San Bernardino County Clerk of the Board.

SUMMARY:

At the direction of the Town Council, on May 1, 2019 at the joint Planning Commission and Town Council workshop, the Town Council initiated an amendment to the General Plan and the Development Code regarding minimum project size of a commercial development within the Regional Commercial (C-R) land use and zoning designation. Staff was directed by the Council, to work with the Planning Commission to reduce the minimum project size to allow flexibility in developing and phasing projects within the C-R land use designation and zoning.

On June 19, 2019, the Planning Commission adopted Planning Commission Resolution No. 2019-004 recommending an amendment to the General Plan and Development Code.

ANALYSIS:

Presently, the General Plan requires development within the C-R land use designation a minimum project size of 10 (ten) acres and the Development Code requires a minimum lot size of 8.1 acres. Additionally, footnote (2) would be removed in its entirety. The discrepancy between the General Plan and Development Code could be corrected through this amendment.

The original intent of the Regional Commercial designation was to encourage large scale projects which are cohesive in development patterns, circulation and design. Requiring a minimum project size/lot size was to ensure extension of adequate infrastructure and to avoid piecemeal development patterns. Because some of the lot sizes were smaller than eight acres, it requires assemblage of lots to comply with this requirement.

The footnote (2) in the Development Code, which states that the minimum lot size of 8.1 acres could be waived if the project were part of an approved Development Permit, refers to a built project. Many projects, such as a large commercial retail center, are built under one or multiple larger lots. After construction is complete, they are often subdivided into individual lots for each building/out-pad, strictly for financing or ownership transactions. Most of the newer commercial centers in Town have out-pad parcels which are individually owned. This footnote is not intended for Development Permits that have yet

to be constructed. With the proposed amendment, staff is recommending eliminating this footnote.

Developers have found the requirement for the minimum development project area/lot size to be problematic in several ways. First, it puts restrictions, requiring installation of site improvements and infrastructure for the entire project, even when phasing the development. Many cases, grading, street improvements or utility extensions will be required for the entire site, even though only one or two pads are constructed in the first phase. It does not allow subdivision of the parcels, smaller than the minimum size, prior to development. This has been a complaint of developers when trying to obtain financing or obtaining investors.

The Town could benefit from a change by seeing a possible increase in development proposals. At the same time, there could be some developments that complete the first phases and are delayed in seeing development completed in the later phases. We have seen examples of this prior to this minimum project/lot size going into effect in 2009. In the Apple Valley Town Center, the pads behind Lowe's and adjacent to the El Pollo Loco and Sonic have proven to be difficult to develop, due to the lack of street frontage, circulation pattern and grading issues. The existing regulations was an attempt to avoid this from happening again, but instead has also inflicted additional hurdles that are making development difficult to get started.

The more traditional developments of large commercial centers were completed by a master developer. But, even these developers left some pads undeveloped. These developed and undeveloped pads were subdivided through a parcel map to allow for individual investment ownership. Jess Ranch Market Place, Apple Valley Town Center and Apple Valley Commons are examples of this. The restrictive language as adopted in 2009 would not allow some of these undeveloped out-pads to be parceled off for ownership under the current regulations. Lessening the restrictions of the land use designation and the development standards will provide developers with the ability to construct more projects at a faster pace. The Town's current design regulations will continue to ensure that these projects are developed in a manner that is characteristic to the quality design expected in Apple Valley.

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

General Plan:

Regional Commercial (C-R): This land use category allows retail uses that serve not only the residents and businesses of Apple Valley, but also of the surrounding region. Permitted uses in this designation include auto malls, regional malls, business parks, factory stores and outlets, entertainment commercial, hotels and motels, restaurants, institutional and public uses. ~~The minimum size for a Regional Commercial project site is 10 acres.~~

Development Code:

Table 9.35.040-A Site Development Standards(Amended Ord. 313, 473)

STANDARDS ⁽¹⁾	DISTRICT					
	O-P	C-G	C-S	C-R	C-V	M-U
1. Minimum lot area	7.5K sf	10K sf	10K sf	8.1 ac ⁽²⁾ 10K sf	10K sf	1 ac.

(2) Unless part of an approved Development Permit.

NOTICING:

General Plan Amendment No. 2019-001 and Development Code Amendment No. 2019-004 was advertised as a Town Council public hearing in the Apple Valley News newspaper on August 2, 2019.

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.

REQUIRED FINDINGS:

In considering any General Plan Amendment or Development Code Amendment, the Council is required by the Municipal Code to make special Findings. The following are the Findings for a General Plan Amendment required under Section 9.2.050.H.3 of the Development Code, with a comment to address each. If the Council wishes to modify the offered comments, after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment text can be included in the formal motion.

1. The proposed General Plan Amendment is consistent with the goals, policies and standards of all elements of the General Plan and will further these goals, policies and standards;

Comment: The proposed General Plan Amendment is consistent with the General Plan goals and policies because it would facilitate the development at the same time be consistent with the goals and

policies of the Land Use Element that pertains to ensuring quality development. The amendment would also eliminate an existing inconsistency between the General Plan and the Development Code.

2. The General Plan, as amended, will comprise an integrated and internally consistent and compatible statement of policies for the Town;

Comment: The General Plan Amendment and the Development Code will be consistent regarding the size of development projects within the Commercial Regional land use designation and will promote the further expansion of commercial development within the Town.

3. The General Plan Amendment furthers the public interest and promotes the general welfare of the Town by providing for logical pattern of land uses and clarifying various land use policies for the Town.

Comment: The proposed General Plan Amendment is consistent with the General Plan goals and policies because it would correct an inconsistency between the General Plan and the Development Code and in addition promote future expansion of development within the existing Regional Commercial designations.

The following are the Findings for an amendment to the Development Code as required under Section 9.06.060 and a comment to address each:

1. 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 amendment would facilitate development, allow for phasing of development, including on and off site improvements. In addition, the proposed amendment would not reduce the quality of development characteristic of new construction within the Town. The amendment will eliminate the current inconsistency of the Development Code with the General Plan.

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

Comment: The proposed Amendment will reduce the minimum lot size of development, allowing for phasing of development, while still ensuring that the community's existing high quality of design and aesthetic

integrity will be preserved and will not be detrimental to the public health, safety or welfare of the community.

Fiscal Impact:

Not Applicable

Attachments:

Town Council Resolution No. 2019-24

Ordinance No. 512

Planning Commission Resolution No. 2019-004

RESOLUTION NO. 2019-24

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL AMEND THE GENERAL PLAN LAND USE ELEMENT DEFINITION OF REGIONAL COMMERCIAL (C-R) DESIGNATION BY REMOVING THE MINIMUM DEVELOPMENT SIZE OF 10 ACRES AND AMEND TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING TABLE 9.35.040-A OF CHAPTER 35 “COMMERCIAL AND OFFICE DISTRICTS”, REMOVING THE MINIMUM LOT SIZE OF 8.1 ACRES AND FOOTNOTE (2) AND REPLACING IT WITH A MINIMUM LOT SIZE OF 10,000 SQUARE FEET

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

WHEREAS, The General Plan of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

WHEREAS, On May 1, 2019, the Town Council initiated a General Plan Amendment, directing staff to draft language that would reduce the minimum project size/lot size for commercial development within the Regional Commercial (C-R) designation/zone for the Planning Commission to review and provide recommendation;

WHEREAS, Specific changes are proposed to the Land Use Element of the adopted General Plan of the Town of Apple Valley by amending the definition of the “Regional Commercial” (C-R) land use designation remove the 10-acre minimum project size;

WHEREAS, On August 2, 2019, General Plan Amendment No. 2019-001 was duly noticed in the Apple valley News, a newspaper of general circulation within the Town of Apple Valley; 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 June 19, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on General Plan Amendment No. 2019-001, receiving testimony from the public and adopted Planning

Commission Resolution No. 2019-004 recommending adoption of this General Plan Amendment; and

WHEREAS, General Plan Amendment No. 2019-001 and are consistent with the Land Use Element goals and policies of the Town’s General Plan and 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 Town Council of the Town of Apple Valley, California, finds and determines 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 General Plan Amendment No. 2019-001 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 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend the definition of the “Regional Commercial” (C-R) land use designation of the Land Use Element within the General Plan of the Town of Apple Valley to read as follows:

Regional Commercial (C-R): This land use category allows retail uses that serve not only the residents and businesses of Apple Valley, but also of the surrounding region. Permitted uses in this designation include auto malls, regional malls, business parks, factory stores and outlets, entertainment commercial, hotels and motels, restaurants, institutional and public uses.

Approved and **Adopted** by the Town Council of the Town of Apple Valley this 13th day of August 2019.

Larry Cusack, Mayor

ATTEST:

La Vonda M-Pearson, Town Clerk

ORDINANCE NO. 512

AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING TABLE 9.35.040-A OF CHAPTER 9.35 “COMMERCIAL AND OFFICE DISTRICTS” REMOVING THE MINIMUM LOT SIZE OF 8.1 ACRES AND FOOTNOTE (2) AND REPLACING IT WITH A MINIMUM LOT SIZE OF 10,000 SQUARE FEET

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, Development Code Amendment No. 2019-004 is consistent with the Town's General Plan and 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; and

WHEREAS, on June 19, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2019-004, receiving testimony from the public and adopting Planning Commission Resolution No. 2019-004 forwarding a recommendation to the Council; 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 August 13, 2019, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearings on Development Code Amendment No. 2019-004, 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. 2019-004 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. 2019-

004 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend Table 9.35.040-A “Site Development Standards” to read as follows:

Table 9.35.040-A Site Development Standards

STANDARDS ⁽¹⁾	DISTRICT					
	O-P	C-G	C-S	C-R	C-V	M-U
1. Minimum lot area	7.5K sf	10K sf	10K sf	10K sf	10K sf	1 ac.

Section 4. 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 5. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 6. 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 to by the Town Clerk this 13th day of August 2019.

Honorable Larry Cusack, Mayor

ATTEST:

Ms. La Vonda M. Pearson, Town Clerk

Approved as to form:

Approved as to content:

Mr. Thomas Rice, Town Attorney

Mr. Douglas B. Robertson, Town Manager

PLANNING COMMISSION RESOLUTION NO. 2019- 004

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL AMEND THE GENERAL PLAN LAND USE ELEMENT DEFINITION OF REGIONAL COMMERCIAL (C-R) DESIGNATION BY REMOVING THE MINIMUM DEVELOPMENT SIZE OF 10 ACRES AND AMEND TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING TABLE 9.35.040-A OF CHAPTER 35 “COMMERCIAL AND OFFICE DISTRICTS”, REMOVING THE MINIMUM LOT SIZE OF 8.1 ACRES AND FOOTNOTE (2) AND REPLACING IT WITH A MINIMUM LOT SIZE OF 10,000 SQUARE FEET

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

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

WHEREAS, 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, Development Code Amendment No. 2019-004 is consistent with the General Plan and Municipal Code of the Town of Apple Valley;

WHEREAS, On May 1, 2019, the Town Council initiated a General Plan Amendment and Development Code Amendment, directing staff to draft language that would reduce the minimum project size/lot size for commercial development within the Regional Commercial (C-R) designation/zone for the Planning Commission to review and provide recommendation;

WHEREAS, Specific changes are proposed to the Land Use Element of the adopted General Plan of the Town of Apple Valley by amending the definition of the “Regional Commercial” (C-R) land use designation remove the 10-acre minimum project size;

WHEREAS, Specific changes are proposed to the Development Code of the Town of Apple Valley Municipal Code by amending Chapter 9.35 “Commercial and Office Districts”, Table 9.35.040-A “Site Development Standards” by replacing the minimum lot size for Regional Commercial from 8.1 acres to 10,000 square feet and removing footnote (2) in its entirety:

WHEREAS, On August 2, 2019, General Plan Amendment No. 2019-001 and Development Code Amendment No. 2019-004 was duly noticed in the Apple valley News, a newspaper of general circulation within the Town of Apple Valley; 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 June 19, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on General Plan Amendment No. 2019-001 and Development Code Amendment No. 2019-004, receiving testimony from the public and adopted Planning Commission Resolution No. 2019-004 recommending adoption of this Ordinance; and

WHEREAS, General Plan Amendment No. 2019-001 and Development Code Amendment No. 2019-002 are consistent with the Land Use Element goals and policies of the Town's General Plan and 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, finds and determines 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 General Plan Amendment No. 2019-001 and Development Code Amendment No. 2019-004 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 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend the definition of the "Regional Commercial" (C-R) land use designation of the Land Use Element within the General Plan of the Town of Apple Valley to read as follows:

Regional Commercial (C-R): This land use category allows retail uses that serve not only the residents and businesses of Apple Valley, but also of the surrounding region. Permitted uses in this designation include auto malls, regional malls, business parks, factory stores and outlets, entertainment commercial, hotels and motels, restaurants, institutional and public uses.

Section 4. Amend Table 9.35.040-A “Site Development Standards” to read as follows:

Table 9.35.040-A Site Development Standards

STANDARDS ⁽¹⁾	DISTRICT					
	O-P	C-G	C-S	C-R	C-V	M-U
1. Minimum lot area	7.5K sf	10K sf	10K sf	10K sf	10K sf	1 ac.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 19th day of June 2019.

 Jason Lamoreaux, Chairman

ATTEST:

I, Maribel Hernandez, 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 19th day of June 2019 by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

 Ms. Maribel Hernandez, Planning Commission Secretary