



Town Council Agenda Report

Date: December 10, 2019 Item No. 9

To: Honorable Mayor and Town Council

Subject: SECOND READING OF ORDINANCE 522 OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE ALLOW ANY REQUEST FOR AN INTENSITY BONUS OR CONCESSION FOR SUSTAINABLE, ENVIRONMENTALLY SUPPORTIVE COMMERCIAL OR INDUSTRIAL DEVELOPMENT TO BE APPROVED BY THE APPLICABLE REVIEW AUTHORITY AND TO INCORPORATE SPECIFIC SUSTAINABLE MEASURES AS QUALIFYING FACTORS WHEN CONSIDERING ANY INTENSITY BONUS OR CONCESSION.

From: Douglas Robertson, Town Manager

Submitted by: Pam Cupp, Senior Planner
Planning Department

Budgeted Item: Yes No N/A

RECOMMENDED ACTION:

Adopt Ordinance No. 522

SUMMARY:

At its November 12, 2019 meeting, the Town Council reviewed and introduced Ordinance No. 522 that will provide the applicable review authority, whether it is the Community Development Director, Planning Commission or Town Council, the authority to approve requests for intensity bonuses or concessions. Previously, these types of requests required a Conditional Use Permit. Ordinance 522 adds specific sustainable measures as qualifying factors when considering any intensity bonus or concession. Ordinance No. 522 has been scheduled for adoption at the December 10, 2019 Town Council Meeting.

Fiscal Impact:

Not Applicable

Attachments:

Ordinance No. 522

ORDINANCE NO. 522

AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING CHAPTER 9.35 “COMMERCIAL AND OFFICE DISTRICTS” AND CHAPTER 9.46 “SPECIFIC USE REGULATIONS FOR INDUSTRIAL DISTRICTS” TO ALLOW ANY REQUEST FOR AN INTENSITY BONUS OR CONCESSION FOR SUSTAINABLE, ENVIRONMENTALLY SUPPORTIVE COMMERCIAL OR INDUSTRIAL DEVELOPMENT TO BE APPROVED BY THE APPLICABLE REVIEW AUTHORITY AND TO INCORPORATE SPECIFIC SUSTAINABLE MEASURES AS QUALIFYING FACTORS WHEN CONSIDERING ANY INTENSITY BONUS OR CONCESSION.

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, On May 1, 2019, the Town Council initiated a Development Code Amendment that would provide the Community Development Director the authority to approve requests for intensity bonuses or concessions based upon enhanced site amenities and/or sustainable, environmentally supportive commercial or industrial projects;

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, On September 18, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2019-011, receiving testimony from the public and adopting Planning Commission Resolution No. 2019-014 forwarding a recommendation to the Council; and

WHEREAS, Specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending Chapter 9.35 “Commercial and Office Districts” and Chapter 9.46 “Specific Use Regulations for Industrial Districts” to allow any request for an intensity bonus or concession for sustainable, environmentally supportive commercial or industrial development to be approved by the applicable review authority and to incorporate specific sustainable measures as qualifying factors when considering any intensity bonus or concession; and.

WHEREAS, Development Code Amendment No. 2019-011 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, 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 November 1, 2019, Development Code Amendment No. 2019-011 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, On November 12, 2019, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2019-011, receiving testimony from the public and

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. 2019-011 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. 2019-009 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend Section 9.35.100 "Intensity Bonus" of Chapter 9.35 "Commercial and Office Districts" as follows:

"9.35.100 - Intensity Bonus/Concessions

- A. Purpose. The purpose of this Section is to encourage the addition of enhanced site amenities or environmentally sustainable design features with and increased flexibility in design for new developments in the commercial and office districts through the granting of additional floor space, additional building height, reduced setbacks or other variations from the Site Development Standards, Section 9.35.040. Such variations are subject to the approval of the applicable review authority.

- B. Types of Amenities and environmentally sustainable measures:
1. Employee trip reduction incentives and/or facilities
 2. Shaded public spaces, plazas
 3. Public art, sculptures and fountains
 4. Enhanced landscaping
 5. Energy efficiencies shall exceed Title 24 standards and incorporate two or more of the following energy reduction measures:
 - a. alternative energy systems on-site;
 - b. design parameters that allow for frequent, reliable and convenient public transit;
 - c. site design that utilizes appropriate site orientation to assure solar access and the use of shade and windbreak trees to enhance the use of alternative energy systems;
 - d. site design that utilizes a minimum of fifty (50) percent sustainable and energy efficient interior and exterior building materials;
 - e. landscape plans that exceed Town water efficient landscape requirements by at least fifteen (15) percent through the use of landscape materials and efficient irrigation systems;
 - f. installation of energy-efficient indoor and outdoor lighting that reduces energy use at least twenty-five (25) percent over traditional or existing lighting fixtures;
 6. Certification as LEED Gold or Platinum.
 7. Other amenities or environmentally sustainable measures as approved by the review authority.
- C. Types of Intensity Bonuses. Variations from the provisions of Section 9.35.040, Site Development Standards, of this Chapter, may be granted by the review authority through the approval of a Development or Use Permit when enhanced site amenities or sustainable design measures as described in subsection B of this Section are provided. Such variations are limited to:
1. Fifteen (15)-foot increase in height, except within 100 feet of a residential use or district; or
 2. Ten (10) percent decrease in required landscape coverage, e.g., 10% to 9%, 15% to 13.5%; or
 3. Ten (10) percent decrease in required setbacks, except when adjacent to residential uses or districts.
 4. Ten (10) percent increase to floor area ratio (F.A.R.)
 5. A reduction of up to ten (10) percent in the ratio of vehicular parking spaces;

6. Other concessions proposed by the developer that result in identifiable and actual reductions in energy or water use, subject to the approval of the review authority.”

Section 4. Amend Section 9.46.060 “Intensity Bonus” Chapter 9.46 “Specific Use Regulation for Industrial Districts” as follows:

“9.46.060 - Intensity Bonus/Concessions

- A. Purpose. The purpose of this Section is to encourage the addition of enhanced site amenities or environmentally sustainable design features and increased flexibility in design for new developments in the industrial districts through the granting of additional building height, reduced setbacks or other variations from the Site Development Standards, Section 9.45.040, of this Code. Such variations are subject to the approval of the applicable review authority.
- B. Types of Amenities and environmentally sustainable measures:
 1. Employee trip reduction incentives and/or facilities
 2. Shaded public spaces, plazas
 3. Public art, sculptures and fountains
 4. Enhanced landscaping
 5. Energy efficiencies shall exceed Title 24 standards and incorporate two or more of the following energy reduction measures:
 - a. alternative energy systems on-site;
 - b. design parameters that allow for frequent, reliable and convenient public transit;
 - c. site design that utilizes appropriate site orientation to assure solar access and the use of shade and windbreak trees to enhance the use of alternative energy systems;
 - d. site design that utilizes a minimum of fifty (50) percent sustainable and energy efficient interior and exterior building materials;
 - e. landscape plans that exceed Town water efficient landscape requirements by at least fifteen (15) percent through the use of landscape materials and efficient irrigation systems;
 - f. installation of energy-efficient indoor and outdoor lighting that reduces energy use at least twenty-five (25) percent over traditional or existing lighting fixtures;
 6. Certification as LEED Gold or Platinum.
 7. Other amenities or environmentally sustainable measures as approved by the review authority.

- C. Types of Intensity Bonuses. Variations from the provisions of Section 9.45.040, Site Development Standards, of this Code, may be granted by the review authority through the approval of a Development or Use Permit when enhanced site amenities or sustainable design measures as described in subsection B of this Section are provided. Such variations are limited to:
1. Fifteen (15)-foot increase in height, except within 100 feet of a residential use or district; or
 2. Ten (10) percent decrease in required landscape coverage, e.g., 10% to 9%, 15% to 13.5%; or
 3. Ten (10) percent decrease in required setbacks, except when adjacent to residential uses or districts.
 4. Ten (10) percent increase to floor area ratio (F.A.R.)
 5. A ten (10) percent reduction in the ratio of vehicular parking spaces;
 6. Other concessions proposed by the developer that result in identifiable and actual reductions in energy or water use, subject to the approval of the review authority.”

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.

Approved and Adopted by the Town Council of the Town of Apple Valley and signed by the Mayor and attested to by the Town Clerk this 10th day of December, 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