

ANALYSIS:

There are three (3) kinds of solar energy facilities, photovoltaic, concentrated photovoltaic and thermal trough (steam generator). For purposes of this report, we will only be discussing the first two (2) which do not require water for operation, are more economical and can be smaller in size. Solar facilities that are over fifty (50) megawatts in size require California Energy Commission approval, which is a very complicated application process and can take several years to obtain. This has driven the industry to consider smaller solar farms using concentrated photovoltaics that are typically under twenty (20) mega watts. Through the California Solar Initiative, Southern California Edison is encouraging the development of concentrated photovoltaic solar farms that would only be two (2) mega watts and ten (10) acres in size. These types of facilities have benefits, including the limited amount of shadowing, no water consumption and are more economical than the traditional photovoltaic systems.

Staff believes that consideration of this type of a development may lead to new industrial development within NAVISP and job creation opportunities. In addition to providing clean energy opportunities, there are other benefits to the Town in allowing solar farm development. The NAVISP could become a preferred location of solar equipment manufacturers which could also assist in developing needed infrastructure. There are areas within the Town, including the NAVISP, where development is currently cost prohibitive due to location and lack of infrastructure. Solar farms can be located in these remote areas and also contribute to the overall infrastructure program within north Apple Valley.

Due to the numerous days of sun light, the High Desert has become a location of choice for future development of solar energy production. The Town of Apple Valley General Plan contains specific policies promoting the use of alternative clean energy. Amending the NAVISP will encourage the use of solar energy production and, possibly, assist in needed infrastructure improvements and attraction of industrial development.

On March 17, May 5 and June 16, 2010, the Planning Commission discussed the issue of photovoltaic solar farms in north Apple Valley and the Apple Valley Dry Lake area. At these meetings, the Commission heard from several representatives of solar companies who provided valuable information to the Commission and staff. In analyzing this possible Specific Plan Amendment and Development Code Amendment, the Planning Commission weighed the needs of solar industry against the interests of the Town.

At the May 5th workshop, the Planning Commission provided direction to staff to prepare amendments to the Development Code, and to the North Apple Valley Industrial Specific Plan, that would allow for photovoltaic solar farms. On June 16th, the Planning Commission adopted Planning Commission Resolution No. 2010-004 which is summarized below and provided as an attachment.

NAVISP Amendment

- Size and Location:
 - a. Allows photovoltaic solar farms in the Specific Plan-Industrial (I-SP), General Industrial (I-G) and Airport Industrial (IA-SP) designations of the Specific Plan, which does not include the Commercial (C-G) areas as a permitted designation.

- b. Solar farms that are ten (10) acres or less are permitted in the above mentioned designations with a Site Plan Review permit, which is administratively reviewed and approved.
 - c. Solar farms that are greater than ten (10) acres, but less than 400 acres, are conditionally permitted in areas east of Navajo Road. It was discussed by the Planning Commission that the larger farms would be more appropriate on the eastern side of the Specific Plan area. Navajo Road is the natural physical divider of the Specific Plan into east and west sections. The Conditional Use Permit (CUP) requirement would allow for Planning Commission review and approval of these larger farms.
- Setbacks:
 - a. Street setbacks are the minimum landscape setbacks of NAVISP as shown in Table III-2 (See below).
 - b. Interior setbacks are zero (0).
 - c. Setbacks from a rock outcropping is twenty-five (25) feet.

Table III-2 Development Standards

(Amended Ord. No. 351, 381)

	SP C -G	I-SP	I-G	I-A
Min. Lot Size (Ac)	1	2	5	n/a
Min. Lot Width (Feet)	200	100	200	200
Min. Lot Depth (Feet)	200	100	200	200
Min. Front Setback or Street Side Setback (Feet)				
▪ Landscaping				
○ On Dale Evans Pkwy	25	25	n/a	n/a
○ On Central Road	25	25	25	25
○ On Papago Rd. (east of Fernandez Rd.), Waalew Rd., or Fernandez St.	50	50	n/a	50
○ On any other road	15	15	15	15
▪ Building				
○ On Dale Evans Pkwy	50	50	n/a	n/a
○ On Central Road	50	50	50	50
○ On Papago Rd. (east of Fernandez Rd.), Waalew Rd., or Fernandez St.	75	75	n/a	75
○ On any other road	25	25	25	25
Min. Building Rear Setback (Feet)	0	15	15	15
Min. Building Interior Side Yard Setback (Feet)	0	0	0	0
Min. Building Setback (feet) from rock outcropping	50	50	50	50
Max. Bldg. Coverage (%)	65	45	45	60
Maximum Height (Feet)				
▪ Within Airport Influence Area (A-1)	35	35	35	35
▪ Within Airport Influence Area (A-2)	35	50	50	50
▪ Outside Airport Influence Area	35	50	100	50

- Height:
 - a. Thirty-five (35)-foot maximum height for panels located in the Airport Influence area (A-1)
 - b. Fifty (50)-foot maximum height for panels located in the Airport Influence area (A-2), I-SP and I-G.
- Ancillary Buildings: All buildings ancillary to the solar farm shall be subject to the Development Standards in Table III-2 of the NAVISP (See above).
- Right-of-way Improvements: All adjacent roadways must be improved to Town standards for industrial areas, which includes half (½)-width street, curb and gutter. Sidewalks are not required.

- Fencing: All farms shall be fenced with chain link or wrought iron fencing a maximum of ten (10) feet high. Solar companies may have difficulties getting financing and insurance without fencing. Barbed wire is prohibited. Barbed wire is only permitted at vehicle impound yards that are used by law enforcement.
- Landscaping: Due to the lack of water typically needed for this type of use, landscaping shall not be required. However, decorative rock shall be placed between the back of curb and the perimeter fencing to provide a more attractive street frontage and provide dust control.
- Lighting: Outdoor lighting is prohibited. This is to remain consistent with the Town's Dark Sky policy.
- Parking: Due to the minimal trips to this type of use for maintenance and monitoring, no paved parking is necessary.

Development Code Amendment (Apple Valley Dry Lake)

- Size and Location: Allows photovoltaic solar farms in the Apple Valley Dry Lake area as follows:
 - a. Ten (10) acres or less requires a Special Use Permit, reviewed and approved administratively.
 - b. Greater than ten (10) acres and a maximum of 400 acres in size, requires a CUP, reviewed and approved by the Planning Commission.
- Setbacks:
 - a. Street setback from a secondary or major road is twenty-five (25) feet.
 - b. Street setback from a local roadway is five (5) feet.
 - c. Setback from an existing single-family home is twenty (25) feet
 - d. Interior setbacks (adjacent to a vacant lot) is zero (0).
- Height: Maximum height is thirty-five (35) feet. This height is consistent with the R-VLD development standard.
- Ancillary Buildings: All buildings ancillary to the solar farm shall be subject to the R-VLD Development Standards within the Development Code. These structures shall also be required to be built on a pad at or above 2,911-foot elevation.
- Right-of-Way Improvements: Town standard requirements shall be built for all adjacent secondary and major roadways. All other roadways shall be improved with all-weather surface approved by the Town Engineer. This can include gravel.
- Fencing: All farms shall be fenced with a chain link or wrought iron fencing a maximum of ten (10) feet high. Solar companies may have difficulties getting financing and insurance without fencing. Barbed wire is prohibited. Barbed wire is only permitted at vehicle impound yards that are used by law enforcement.

- Lighting: Outdoor lighting is prohibited. This is to remain consistent with the Town's Dark Sky policy.
- Parking: Due to the minimal trips to this type of use for maintenance and monitoring, no paved parking is necessary.

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.

Required "Findings":

- 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 desire to encourage the use and production of clean energy through green and efficient technology. The proposed Amendment which provides opportunities for development of solar farms promotes the use of clean energy and reduction in green house gas emissions.

- 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 Amendment No. 2010-005 and Specific Plan 2005-001 Amendment No. 3, will modify the Town's Development regulations by establishing regulations for photovoltaic solar farms. The establishment of solar farm regulations shall 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. 2010-005 and Specific Plan 2005-001 Amendment No. 3 were advertised as a public hearing in the Apple Valley News newspaper on July 30, 2010 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 and to amend Specific Plan 2005-001 Amendment No. 3.

Attachments:

Draft Ordinance

Planning Commission Resolution No. 2010-004

Minute Excerpt from Planning Commission meeting of June 16, 2010

ORDINANCE No. 412

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, ADOPTING DEVELOPMENT CODE AMENDMENT NO. 2010-005 AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING SECTION 9.28.030 "PERMITTED USES" AND ADDING SECTION 9.29.150 "PHOTOVOLTAIC SOLAR FARMS" AS IT RELATES TO PERMITTED USES AND SITE DEVELOPMENT STANDARDS FOR PHOTOVOLTAIC SOLAR FARMS WITHIN THE AREA DESIGNATED AS THE APPLE VALLEY DRY LAKE AND ADOPT SPECIFIC PLAN NO. 2005-001 AMENDMENT NO. 3 THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN BY AMENDING SECTION III "DEVELOPMENT STANDARDS AND GUIDELINES" AS THEY RELATE TO PERMITTED USES AND SITE DEVELOPMENT STANDARDS FOR PHOTOVOLTAIC SOLAR FARMS.

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) A Specific Plan of Land Use was adopted on October 10, 2006 by the Town Council on the recommendation of the Planning Commission for lands generally located east of Dale Evans Parkway, south of Quarry Road, west of Central Road and north of Waalew Road, known as the North Apple Valley Industrial Specific Plan; and

(iv) The North Apple Valley Industrial Specific Plan has been previously modified by the Town Council on the recommendation of the Planning Commission; and

(v) Specific Plan No. 2005-001 Amendment No. 3 is consistent with the General Plan and Municipal Code of the Town of Apple Valley; and

(vi) Specific changes to Chapters 9.28 "Residential Districts" and 9.29 "Specific Use Regulations For Residential Districts" of Title 9 "Development Code" of the Apple Valley Municipal Code as it relates to allowing photovoltaic solar farms within the area identified as the Apple Valley Dry Lake generally located north of Thunderbird Road, west of Joshua Road, east of Dale Evans Parkway and south of South Road located within the Town of Apple Valley; and

(vii) Specific changes are proposed to the North Apple Valley Industrial Specific Plan by amending Section III "Development Standards and Guidelines" as they relate to permitted land uses and development standards.

(ix) On July 30, 2010, Development Code Amendment No. 2010-005 and Specific Plan 2005-001 Amendment No. 3 were duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

(x) 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

(xi) On June 16, 2010, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2010-005 and Specific Plan 2005-001 Amendment No. 3, receiving testimony from the public and adopted Planning Commission Resolution 2010-004; and

(xii) Development Code Amendment No. 2010-005 and Specific Plan 2005-001 Amendment No. 3 are 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. 2010-005 and Specific Plan 2005-001 Amendment No. 3 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. 2010-005 and Specific Plan 2005-001 Amendment No. 3 are not anticipated to have a direct, adverse impact upon the environment and, therefore, is EXEMPT from further environmental review.

Section 3. Add new No. 15 and 16 to paragraph E “Manufacturing and Production Uses” of Table III-1 “Allowable Uses” of subsection C. “Allowable Uses” of Section III “Development Standards and Guidelines” of the North Apple Valley Industrial Specific Plan to read as follows:

	COMMERCIAL	INDUSTRIAL		AIRPORT
TYPE OF USE	SP C-G	I-SP	I-G	IA-SP
15. Photovoltaic Solar Farms 10 acres or less	-	P	P	P
16. Photovoltaic Solar Farms greater than 10 acres and less than 400 acres located east of Navajo Road	-	CUP	CUP	CUP

Section 4. Add a new paragraph 10. of subsection E. “Land Use Regulations” of Section III “Development Standards and Guidelines” of the North Apple Valley Industrial Specific Plan to read as follows:

10. Photovoltaic Solar Farms

All photovoltaic solar farms within the I-SP, I-G and IA-SP Districts shall be fenced with chain link or wrought iron fencing a maximum of ten (10) feet high. The use of barbed wire and outdoor lighting is prohibited. Solar Panels shall have a maximum height of thirty-five (35) feet within the Airport Influence area (A-1) and fifty (50) feet in Airport Influence area (A-2), I-SP and I-G. Photovoltaic solar farms greater than 10 acres in size shall be located east of Navajo Road. Street setbacks shall be the minimum landscape setbacks as described in Table III-2 of this Section. Interior setbacks shall be zero. Setbacks from rock outcroppings shall be twenty-five (25) feet. All buildings ancillary to the solar

farm shall comply with the development standards in Table III-2 of this Section. Decorative gravel/rock shall be placed along the street frontage from the back of curb to the setback line. There is no requirement for off-street parking. All adjacent roadways shall be improved to Town standards for industrial areas.

Section 5. Amend the first subparagraph of paragraph 5. “Outdoor Uses” of subsection E. “Land Use Regulations” of Section III “Development Standards and Guidelines” of the North Apple Valley Industrial Specific Plan to read as follows:

5. (First Paragraph)

All manufacturing and active uses in the SP, C-G and I-SP districts shall be conducted entirely within and enclosed building, with the exception of photovoltaic solar farms where permitted.

Section 6. Amend the third subparagraph of paragraph 5. “Outdoor Uses” of subsection E. “Land Use Regulations” of Section III “Development Standards and Guidelines” of the North Apple Valley Industrial Specific Plan to read as follows:

5. (Third Paragraph)

Outdoor manufacturing or other active use is prohibited in the SP, C-G and I-SP Districts, with the exception of photovoltaic solar farms where permitted and as described in paragraph 5. below. Outdoor manufacturing or other active use may be permitted in the I-G District, under the standards provided below.

Section 7. Add No. 5 to paragraph E. “Other Uses” of Table 9.28.030-A of subsection 9.28.030 “Permitted Uses” of Section 9.28 “Residential Districts” of the Development Code to read as follows:

TYPE OF USE	R-VLD	R-A	R-LD	R-E	R-E ¾	R-EQ	R-SF	R-M	MHP	M-U	PRD
E. Other Uses											
5. Photovoltaic Solar Farms 10 acres or less within the Dry Lake area	SUP	-	-	-	-	-	-	-	-	-	-
Photovoltaic Solar Farms greater than 10 acres and less than 400 acres in the Dry Lake area	CUP	-	-	-	-	-	-	-	-	-	-

Section 8. Add subsection 9.29.150 “Photovoltaic Solar Farms” to Section 9.29 “Specific Use Regulations for Residential Districts” of the Development Code to read as follows:

9.29.150 Photovoltaic Solar Farms

A. Purpose. The purpose of this subsection is to provide opportunities for photovoltaic solar farms within the Apple Valley Dry Lake Area within the R-VLD Residential District. The occasional retention of water in the Apple Valley Dry Lake is a compatible use with the photovoltaic panels which make up the solar farm. The intent of this Code is to insure that the photovoltaic solar farms are compatible with, and do not negatively impact the surrounding uses.

B. Permit Required. A Special Use Permit shall be required for photovoltaic solar farms ten (10) acres or less located within the Apple Valley Dry Lake. Photovoltaic solar farms

greater than ten (10) acres and less than 400 acres located within the Apple Valley Dry Lake shall require a Conditional Use Permit.

C. Development Standards.

All photovoltaic solar farms shall be fenced with chain link or wrought iron fencing a maximum of ten (10) feet high. The use of barbed wire and outdoor lighting is prohibited. Solar panels shall have a maximum height of thirty-five (35) feet. Street setbacks from a major or secondary roadway shall be a minimum of twenty-five (25) feet and street setbacks from local roadways shall be five (5) feet. Interior setbacks shall be zero. Setbacks from lot lines of existing single family residences shall be twenty-five (25) feet. All buildings ancillary to the solar farm shall comply with the Residential-Very Low Density (R-VLD) development standards and shall be built on a pad with an elevation at or above 2911 feet. Street improvements to secondary and major roadways shall be installed in accordance with the Town requirements. All other roadways providing access to the project may be improved with all weather materials as required by the Town Engineer and maintained in a dust-free manner and kept clear of any litter, trash or debris. There is no requirement for off-street parking.

Section 9. 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 10. 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 11. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 12. 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 ____ day of _____, 2010.

Honorable Peter Allan, 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

PLANNING COMMISSION RESOLUTION NO. 2010- 004

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2010-005 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING SECTION 9.28.030 “PERMITTED USES” AND ADDING SECTION 9.29.150 “PHOTOVOLTAIC SOLAR FARMS” AS IT RELATES TO PERMITTED USES AND SITE DEVELOPMENT STANDARDS FOR PHOTOVOLTAIC SOLAR FARMS WITHIN THE AREA DESIGNATED AS THE APPLE VALLEY DRY LAKE AND SPECIFIC PLAN NO. 2005-001 AMENDMENT NO. 3 THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN BY AMENDING SECTION III “DEVELOPMENT STANDARDS AND GUIDELINES” AS THEY RELATE TO PERMITTED USES AND SITE DEVELOPMENT STANDARDS FOR PHOTOVOLTAIC SOLAR FARMS.

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, a Specific Plan of Land Use was approved on October 10, 2006 by the Town Council on the recommendation of the Planning Commission for lands generally located east of Dale Evans Parkway, south of Quarry Road, west of Central Road and north of Waalew Road, known as the North Apple Valley Industrial Specific Plan; and

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

WHEREAS, Specific Plan No. 2005-001 Amendment No. 3 is consistent with the General Plan and Municipal Code of the Town of Apple Valley; and

WHEREAS, Specific changes to Chapters 9.28 “Residential Districts” and 9.29 “Specific Use Regulations For Residential Districts” of Title 9 “Development Code” of the Apple Valley Municipal Code as it relates to allowing photovoltaic solar farms within the area identified as the Apple Valley Dry Lake generally located north of Thunderbird Road, west of Joshua Road, east of Dale Evans Parkway and south of South Road located within the Town of Apple Valley; and

WHEREAS, Specific changes are proposed to the North Apple Valley Industrial Specific Plan by amending Section III “Development Standards and Guidelines” as they relate to permitted land uses and development standards.

WHEREAS, On June 4, 2010, Development Code Amendment No. 2010-005 and Specific Plan No. 2005-001 Amendment No. 3 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 16, 2010, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2010-005 and Specific Plan No. 2005-001 Amendment No. 3, receiving testimony from the public and adopted Planning Commission Resolution No. 2010-004 recommending adoption of this Ordinance; and

WHEREAS, Development Code Amendment No. 2010-005 and Specific Plan No. 2005-001 Amendment No. 3 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.

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 Development Code Amendment No. 2010-005 and Specific Plan No. 2005-001 Amendment No. 3 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. 2010-005 and Specific Plan No. 2005-001 Amendment No. 3 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Add new No. 15 and 16 to paragraph E “Manufacturing and Production Uses” of Table III-1 “Allowable Uses” of subsection C. “Allowable Uses” of Section III “Development Standards and Guidelines” of the North Apple Valley Industrial Specific Plan to read as follows:

	COMMERCIAL	INDUSTRIAL		AIRPORT
TYPE OF USE	SP C-G	I-SP	I-G	IA-SP
15. Photovoltaic Solar Farms 10 acres or less	-	P	P	P
16. Photovoltaic Solar Farms greater than 10 acres and less than 400 acres located east of Navajo Road	-	CUP	CUP	CUP

Section 4. Add a new paragraph 10. of subsection E. “Land Use Regulations” of Section III “Development Standards and Guidelines” of the North Apple Valley Industrial Specific Plan to read as follows:

11. Photovoltaic Solar Farms

All photovoltaic solar farms within the I-SP, I-G and IA-SP Districts shall be fenced with chain link or wrought iron fencing a maximum of ten (10) feet high. The use of barbed wire and outdoor lighting is prohibited. Solar Panels shall have a maximum height of thirty-five (35) feet within the Airport Influence area (A-1) and fifty (50) feet in Airport Influence area (A-2), I-SP and I-G. Photovoltaic solar farms greater than 10 acres in size shall be located east of Navajo Road. Street setbacks shall be the minimum landscape setbacks as described in Table III-2 of this Section. Interior setbacks shall be zero. Setbacks from rock outcroppings shall be twenty-five (25) feet. All buildings ancillary to the solar farm shall comply with the development standards in Table III-2 of this Section. Decorative gravel/rock shall be placed along the street frontage from the back of curb to the setback line. There is no requirement for off-street parking. All adjacent roadways shall be improved to Town standards for industrial areas.

Section 5. Amend the first subparagraph of paragraph 5. “Outdoor Uses” of subsection E. “Land Use Regulations” of Section III “Development Standards and Guidelines” of the North Apple Valley Industrial Specific Plan to read as follows:

5. (First Paragraph)

All manufacturing and active uses in the SP, C-G and I-SP districts shall be conducted entirely within and enclosed building, with the exception of photovoltaic solar farms where permitted.

Section 6. Amend the third subparagraph of paragraph 5. “Outdoor Uses” of subsection E. “Land Use Regulations” of Section III “Development Standards and Guidelines” of the North Apple Valley Industrial Specific Plan to read as follows:

5. (Third Paragraph)

Outdoor manufacturing or other active use is prohibited in the SP, C-G and I-SP Districts, with the exception of photovoltaic solar farms where permitted and as described in paragraph 5. below. Outdoor manufacturing or other active use may be permitted in the I-G District, under the standards provided below.

Section 7. Add No. 5 to paragraph E. “Other Uses” of Table 9.28.030-A of subsection 9.28.030 “Permitted Uses” of Section 9.28 “Residential Districts” of the Development Code to read as follows:

TYPE OF USE	R-VLD	R-A	R-LD	R-E	R-E ¾	R-EQ	R-SF	R-M	MHP	M-U	PRD
E. Other Uses											
5. Photovoltaic Solar Farms 10 acres or less within the Dry Lake area	SUP	-	-	-	-	-	-	-	-	-	-
Photovoltaic Solar Farms greater than 10 acres and less than 400 acres in the Dry Lake area	CUP	-	-	-	-	-	-	-	-	-	-

Section 8. Add subsection 9.29.150 “Photovoltaic Solar Farms” to Section 9.29 “Specific Use Regulations for Residential Districts” of the Development Code to read as follows:

9.29.150 Photovoltaic Solar Farms

- D. Purpose. The purpose of this subsection is to provide opportunities for photovoltaic solar farms within the Apple Valley Dry Lake Area within the R-VLD Residential District. The occasional retention of water in the Apple Valley Dry Lake is a compatible use with the photovoltaic panels which make up the solar farm. The intent of this Code is to insure that the photovoltaic solar farms are compatible with, and do not negatively impact the surrounding uses.
- E. Permit Required. A Special Use Permit shall be required for photovoltaic solar farms ten (10) acres or less located within the Apple Valley Dry Lake. Photovoltaic solar farms greater than ten (10) acres and less than 400 acres located within the Apple Valley Dry Lake shall require a Conditional Use Permit.
- F. Development Standards.

All photovoltaic solar farms shall be fenced with chain link or wrought iron fencing a maximum of ten (10) feet high. The use of barbed wire and outdoor lighting is prohibited. Solar Panels shall have a maximum height of thirty-five (35) feet. Street setbacks from a major or secondary roadway shall be a minimum of twenty-five (25) feet and street setbacks from local roadways shall be five (5) feet. Interior setbacks shall be zero. Setbacks from lot lines of existing single family residences shall be twenty-five (25) feet. All buildings ancillary to the solar farm shall comply with the Residential-Very Low Density (R-VLD) development standards and shall be built on a pad with an elevation at or above 2911 feet. Street improvements to secondary and major roadways shall be installed in accordance with the Town requirements. All other roadways providing access to the project may be improved with all weather materials as required by the Town Engineer and maintained in a dust-free manner and kept clear of any litter, trash or debris. There is no requirement for off-street parking.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 16th day of June 2010.

Mr. Bruce Kallen, Chairman

ATTEST:

I, Patty Hevle, 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 16th day of June, 2010 by the following vote, to-wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Ms Patty Hevle, Planning Commission Secretary

MINUTES EXCERPT

TOWN OF APPLE VALLEY PLANNING COMMISSION Regular Meeting Wednesday, June 16, 2010

CALL TO ORDER

At 6:00 p.m., the Regular Meeting of the Planning Commission of the Town of Apple Valley for June 16, 2010, was called to order by Vice-Chairman B.R. "Bob" Tinsley.

ROLL CALL

Planning Commission

Roll call was taken with the following members present: Commissioner David Hernandez, Commissioner John Putko, and Vice-Chairman B.R. "Bob" Tinsley. Absent: Commissioner Cusack and Chairman Bruce Kallen.

STAFF PRESENT

Ms. Lori Lamson, Assistant Director of Community Development; Ms. Carol Miller, Senior Planner; Ms. Pam Cupp, Associate Planner; and Ms. Patty Hevle, Planning Commission Secretary.

3. Development Code Amendment No. 2010-005 and Specific Plan No. 2005-001, Amendment No. 3.

Applicant: Town of Apple Valley

Location: North Apple Valley Industrial Specific Plan (NAVISP) and the Apple Valley Dry Lake area.

Vice-Chairman Tinsley opened the public hearing at 6:08 p.m.

Ms. Lori Lamson, Assistant Director of Community Development, presented the staff report as filed by the Planning Division.

Ms. Lamson gave a brief summary of each of the proposed items and the requirements of the Development Code Amendment.

Mr. Scott Mazzola, Apple Valley, commented on solar roof panels and the strict rules that prevent placing the panels on many businesses within the Town.

Mr. Brad Merrell, Merrell Johnson Engineering, expressed concerns regarding setback requirements. He also requested to know if a waiver for visibility of the panels on roof tops could be considered.

Since there was no one else in the audience requesting to speak to this item, Vice-Chairman Tinsley closed the public hearing at 6:16 pm.

Commissioner Hernandez stated the Town only required right-of-way improvements in the NAVISP and did not require sidewalks.

Ms. Lamson stated the industry did not wish to make improvements to the rights-of-way; however, the staff and the Town Council felt the Town should require some infrastructure in return for allowing solar projects within the NAVISP. She further commented that the minimum lot size in the Dry Lake area is five (5) acres, which would allow for interior setbacks.

Commissioner Hernandez stated that the height requirement is thirty-five (35) to fifty (50) feet, but there was no mention in the proposed Amendment that addressed visibility.

Ms. Lamson stated this requirement was intended for a solar farm using ground-mounted panels and that verbiage probably should be added for the roof-mounted panels. She stated the Commission needed to look at the current requirements and allow some flexibility for roof-mounted units.

She further commented that the Climate Action Plan, which is going before Council at the next Council meeting, will oblige the Town to be more flexible.

Vice-Chairman Tinsley commented that the paving requirement could be prohibitive for these projects and felt improvements to infrastructure would be done as the area is developed.

Mr. Merrell agreed stating that a stand-alone project would not be able to absorb the cost of the infrastructure; therefore, a solar project would need to be ancillary to another project.

Ms. Lamson stated the Commission could require in-lieu fees for the infrastructure, but those fees would need to be paid before the project began.

Mr. Mazzolla stated that, as far as a roof-mounted unit, the Amendment could allow partial visibility which would give some flexibility on a case-by-case basis.

Ms. Lamson suggested the Commission approve this Resolution for ground-mounted solar farms and consider an additional Resolution for roof-mounted projects at a later date, With that action, the Resolution could move forward to the Town Council for consideration.

MOTION:

Motion by Vice-Chairman Tinsley, seconded by Commissioner Hernandez, that the Planning Commission move to adopt Planning Commission Resolution No. 2010-004 for ground-mounted units only.

ROLL CALL VOTE:

Ayes: Commissioner Hernandez
Commissioner Putko
Vice-Chairman Tinsley
Noes: None
Abstain: None
Absent: Commissioner Cusack
Chairman Kallen

The motion carried by a 3-0-0-2 vote