

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

A REQUEST TO CONSIDER AN AMENDMENT TO THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN ELIMINATING THE DESIGNATION OF NON-CONFORMING FOR THE USE OF EXPOSED METAL WITHIN THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN.

Summary Statement:

On May 11, 2010, the Town Council initiated an amendment to the North Apple Valley Industrial Specific Plan that would remove the non-conforming designation for the use of exposed metal within a designated area of the NAVISP. The Planning Commission discussed this issue on June 16, and August 4, 2010. The Planning Commission directed staff to prepare a Planning Commission Resolution that would remove the prohibition of exposed metal, allow exposed metal buildings with a Conditional Use Permit and remove the non-conforming status throughout the entire Specific Plan area. (Continued on next page)

Recommended Action:

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

1. **Determine** that, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is EXEMPT from further CEQA review.
2. **Find** the facts presented within the staff report support the required Findings for approval of an amendment to Specific Plan No. 2005-001 Amendment No. 4 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. 413 in its entirety and read by title only.
5. **Introduce** Ordinance No. 413, amending Section II "Land Use" and Section III "Development Standards and Guidelines" as they relate to allowing exposed metal in the specific plan area with the approval of a Conditional Use Permit and removing the non-conforming status of the expansion of existing buildings with exposed metal.

Proposed by: Planning Division

Item Number _____

Town Manager Approval: _____

Budget Item Yes No N/A

Town Council Meeting: September 14, 2010

The current regulations of the NAVISP prohibit the use of exposed metal on buildings, with the exception of airplane hangars located on County-owned airport property. Existing buildings that have exposed metal are considered legal non-conforming structures. In accordance with the Specific Plan, a Conditional Use Permit is required to expand an existing legal non-conforming building/use. If a Conditional Use Permit is approved, the building/use continues to be legal nonconforming.

The intent of the regulations prohibiting exposed metal is to ensure that the Specific Plan is developed as a high quality industrial park. The legal non-conforming expansion language in the Specific Plan allows the Planning Commission to consider modifications to the Specific Plan, such as continuing the use of exposed metal, for existing facilities. This designed-in flexibility was provided to enable the Planning Commission to consider such development on a case-by-case basis.

The current concern is that the designation of non-conforming potentially inhibits opportunities for financing future construction projects. Existing companies, such as Reid Products, that may want to expand are finding it difficult to obtain construction financing and the non-conforming designation may be a contributing factor. The recent downturn in the market has made financing much more difficult to obtain. According to Reid Products, one of the current lender demands is that properties cannot have the non-conforming designation even if the Specific Plan allows the rebuilding of the buildings to their current or approved design. Property owners are also concerned about the non-conforming designation being detrimental to the value of the property.

Staff provided the Planning Commission with two draft Resolutions for consideration. The difference between the two resolutions is the area of the Specific Plan affected by the proposed amendment. The Planning Commission adopted the language that reduces the restrictions on the use of exposed metal throughout the entire Specific Plan, with such language indicating the use of exposed metal requires the approval of a Conditional Use Permit. It would also remove the non-conforming status for the existing use of exposed metal. The alternative resolution that the Planning Commission did not adopt was to limit the use of exposed metal to the area south and west of the High Desert Corridor alignment as directed by the Town Council. This alternative was first discussed by Councilmember Coleman at the May 11, 2010 Council meeting. There are approximately twenty-six (26) developed properties within this area and approximately twenty-five (25) outside this area. The concept originally directed by the Council would continue the exposed metal prohibition to development north and east of the High Desert Corridor. Because this area would be developed without the use of exposed metal, it would alleviate some of the concerns of the existing property owners that want to maintain high quality design standards to protect investments and maintaining high property values.

As part of the Planning Commission discussion, the language referencing pre-fabricated buildings was removed and replaced with the use of exposed metal. The Planning Commission stated that, with new technologies, there are better materials for pre-fabricated buildings and, if covered with a non metal surface, would be considered acceptable. However, the Commission wanted to continue the requirement of reviewing all buildings that had exposed metal on a case by case basis.

Attachments: Draft Ordinance No. _____
Planning Commission Resolution 2010-006
Planning Commission Staff Report August 4, 2010.
Minute Excerpts from the Planning Commission Meeting on August 4, 2010.

ORDINANCE NO. 413

AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT SPECIFIC PLAN NO. 2005-001 AMENDMENT NO. 4 THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN BY AMENDING SECTION II "LAND USE" AND SECTION III "DEVELOPMENT STANDARDS AND GUIDELINES" AS THEY RELATE TO ALLOWING EXPOSED METAL IN THE SPECIFIC PLAN AREA WITH THE APPROVAL OF A CONDITIONAL USE PERMIT AND REMOVING THE NON-CONFORMING STATUS OF THE EXPANSION OF EXISTING BUILDINGS WITH EXPOSED METAL.

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

Section 1. Recitals.

(i) 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

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

(iii) Specific Plan No. 2005-001 Amendment No. 4 is consistent with the General Plan and Municipal Code of the Town of Apple Valley; and

(iv) Specific changes are proposed to the North Apple Valley Industrial Specific Plan by amending Section II "Land Use" and Section III "Development Standards and Guidelines" as they relate to exposed metal in the Specific Plan area with the approval of a Conditional Use Permit and removing the non-conforming status of the use of exposed metal on expansion of existing development.

(ix) On August 20, 2010, Specific Plan 2005-001 Amendment No. 4 was 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 the Specific Plan Amendment will not have a direct, adverse impact upon the environment and, therefore, is EXEMPT from further environmental review; and

(xi) On August 4, 2010, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Specific Plan 2005-001 Amendment No. 4, receiving testimony from the public and adopted Planning Commission Resolution 2010-006; and

(xii) On September 14, 2010 the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Specific Plan 2005-001 Amendment No. 4, receiving testimony from the public; and

(xii) Specific Plan 2005-001 Amendment No. 4 is consistent with Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley and shall promote the health, safety and general welfare of the citizens of the Town of Apple Valley.

Section 2. Findings.

(i) Find that the changes proposed by Specific Plan 2005-001 Amendment No. 4 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 Specific Plan 2005-001 Amendment No. 4 are not anticipated to have a direct, adverse impact upon the environment and, therefore, is EXEMPT from further environmental review.

Section 3. Amend the first subparagraph of paragraph No. 7 “Pre-Fabricated Structures/Metal Buildings” of subsection E “Land Use Regulations” of Section III “Development Standards and Guidelines” to read as follows:

Buildings with exposed metal are discouraged in the Specific Plan Area, with the exception of airplane hangers located on the airport property, in the Industrial-Airport District. Buildings proposing to use exposed metal shall require the approval of a Conditional Use Permit.

Section 4. Amend the third subparagraph of paragraph No. 4 “Existing Development” of subsection E “Special Provisions” of Section II “Land Use” of the North Apple Valley Industrial Specific Plan to read as follows:

Non-conforming commercial or industrial buildings and uses in the Specific Plan area existing as of the adoption of this Specific Plan may continue to operate, and are not required to conform to the provisions of this Specific Plan unless the building or use is abandoned for a period of 6 months. These buildings or uses may also be replaced if damaged by fire or act of God. Expansion of these buildings or uses will require the approval of a Conditional Use Permit. Buildings proposing to expand the existing use of, or replace, exposed metal, require the approval of a Conditional Use Permit. The use of exposed metal that has been approved with a Conditional Use Permit shall not be considered a non-conforming use.

Section 5. 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 6. 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 7. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 8. 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. 2010-006

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT SPECIFIC PLAN NO. 2005-001 AMENDMENT NO. 4 THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN BY AMENDING SECTION III "DEVELOPMENT STANDARDS AND GUIDELINES" AS THEY RELATE ALLOWING EXPOSED METAL WITH THE APPROVAL OF A CONDITIONAL USE 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, 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. 4 is consistent with the General Plan and Municipal Code of the Town of Apple Valley; and

WHEREAS, Specific changes to paragraph 7 "Pre-Fabricated Structures/Metal Buildings" of subsection E "Land Use Regulations" of Section III "Development Standards and Guidelines" of the North Apple Valley Industrial Specific Plan; and

WHEREAS, On July 26, 2010, Specific Plan No. 2005-001 Amendment No. 4 was duly noticed in the Daily Press; 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 4, 2010, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Specific Plan No. 2005-001 Amendment No. 4, receiving testimony from the public and adopted Planning Commission Resolution No. 2010-XXX recommending adoption of this Ordinance; and

WHEREAS, Specific Plan No. 2005-001 Amendment No. 4 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 Specific Plan No. 2005-001 Amendment No. 4 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 Specific Plan No. 2005-001 Amendment No. 4 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend the first subparagraph of paragraph No. 7 “Pre-Fabricated Structures/Metal Buildings” of subsection E “Land Use Regulations” of Section III “Development Standards and Guidelines” to read as follows:

Buildings with exposed metal are discouraged in the Specific Plan Area, with the exception of airplane hangers located on the airport property, in the Industrial-Airport District. Buildings proposing to use exposed metal shall require the approval of a Conditional Use Permit.

Section 4. Amend the third subparagraph of paragraph No. 4 “Existing Development” of subsection E “Special Provisions” of Section II “Land Use” of the North Apple Valley Industrial Specific Plan to read as follows:

Non-conforming commercial or industrial buildings and uses in the Specific Plan area existing as of the adoption of this Specific Plan may continue to operate, and are not required to conform to the provisions of this Specific Plan unless the building or use is abandoned for a period of 6 months. These buildings or uses may also be replaced if damaged by fire or act of God. Expansion of these buildings or uses will require the approval of a Conditional Use Permit. Buildings proposing to expand the existing use of, or replace, exposed metal, require the approval of a Conditional Use Permit. The use of exposed metal that has been approved with a Conditional Use Permit shall not be considered a non-conforming use.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 4th day of August 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 4th day of August, 2010 by the following vote, to-wit:

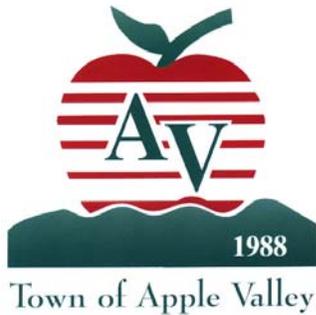
AYES:

NOES:

ABSENT:

ABSTAIN:

Ms Patty Hevle, Planning Commission Secretary



TOWN OF APPLE VALLEY PLANNING COMMISSION

STAFF REPORT

AGENDA DATE:	August 4, 2010
CASE NUMBER:	SP2005-001 (NAVISP) Amendment No. 4 – Use of Exposed Metal and Non-Conforming status
APPLICANT:	Town of Apple Valley
PROPOSAL:	An amendment to the North Apple Valley Industrial Specific Plan eliminating the designation of non-conforming for the use of exposed metal within the North Apple Valley Industrial Specific Plan.
LOCATION:	North Apple Valley Industrial Specific Plan (NAVISP)
EXISTING GENERAL PLAN DESIGNATIONS:	Specific Plan
EXISTING ZONING:	Specific Plan
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 Director of Community Development
RECOMMENDATION:	Review and adopt one (1) of the two (2) draft resolutions provided for your consideration.

BACKGROUND

On May 11, 2010, the Town Council initiated an amendment to the North Apple Valley Industrial Specific Plan that would remove the non-conforming designation for the use of exposed metal within a designated area of the NAVISP.. On June 16, 2010, the Planning Commission discussed this issue and directed staff to return with a draft Planning Commission Resolution that would remove the prohibition of exposed metal, allow exposed metal buildings with a Conditional Use Permit and remove the non-conforming status.

The current regulations of the NAVISP prohibit the use of exposed metal on buildings, with the exception of airplane hangars located on County-owned airport property. Existing buildings that have exposed metal are considered legal non-conforming structures. In accordance with the Specific Plan, a Conditional Use Permit is required to expand an existing legal non-conforming building/use. If a Conditional Use Permit is approved, the building/use continues to be legal nonconforming.

The intent of the regulations prohibiting exposed metal is to ensure that the Specific Plan is developed as a high quality industrial park. The legal non-conforming expansion language in the Specific Plan allows the Planning Commission to consider modifications to the Specific Plan, such as continuing the use of exposed metal, for existing facilities. This designed-in flexibility was provided to enable the Planning Commission to consider such development on a case-by-case basis.

The Council originally adopted the NAVISP on October 24, 2006. On July 10, 2007, the Council considered and adopted the first amendment to the Specific Plan that included expanding the plan area to the southwest. The amendment also removed some minor discrepancies and added regulations regarding roof material within the Design Standards and Guidelines section. The adopted roof material regulations states that corrugated metal, unpainted materials and/or reflective materials are not permitted.

Concerned about the use of exposed metal roof and other metal building materials, there were several property owners and their representatives present at both the Town Council and Planning Commission meetings for the NAVISP Amendment No. 1. These property owners and their representatives spoke at the May 16, 2007 Planning Commission meeting and supported the high quality design standards required in the Specific Plan, which they equated to protecting their investments and maintaining high property values.

The use of exposed metal was also discussed by the Planning Commission at its November 7, 2007 meeting. The discussion was related to an expansion of existing Reid Products facility. The related minute excerpt is also attached to this report. The existing Reid Products facility has exposed metal buildings and the proposal was to continue the use of exposed metal on the new building. The existing facility is considered a legal non-conforming use due to the exposed metal. The continued use of exposed metal is considered an expansion of an existing non-conforming use.

In accordance with the Specific Plan, a Conditional Use Permit is required to expand an existing non-conforming use. Staff and the applicant were able to compromise on a design that has a combination of a stucco appearance and some exposed metal. The Planning Commission approved this concept, with the understanding that any new development would continue to

maintain the high quality design standards set forth in the Specific Plan. The legal non-conforming expansion language in the Specific Plan allows the Planning Commission to consider modifications to the Specific Plan, such as continuing the use of exposed metal, for existing facilities. This designed-in flexibility was provided to enable the Planning Commission to consider development, such as the expansion of Reid Products, on a case-by-case basis.

The current concern of the Town Council is that the designation of non-conforming potentially inhibits opportunities for financing future construction projects. Existing companies, such as Reid Products, that may want to expand are finding it difficult to obtain construction financing due to the non-conforming designation. The recent downturn in the market has made financing much more difficult to obtain. According to Reid Products one of the current lender demands is that properties cannot have the non-conforming designation, even if the Specific Plan allows the rebuilding of the buildings to their current or approved design. Property owners are also concerned about the non-conforming designation being detrimental to the value of the property. With these concerns in mind, the Town Council has directed staff to work with the Planning Commission to remove the non-conforming designation as it pertains to the use of exposed metal.

DISCUSSION

Staff has provided two draft Resolutions for consideration. Per Planning Commission direction, Draft Resolution A, reduces the restrictions on the use of exposed metal throughout the entire Specific Plan requiring that the use of exposed metal requires the approval of a Conditional Use Permit. It would also remove the non-conforming status for the use of exposed metal.

Per Town Council direction, Draft Resolution B does the same thing. but limits the area to south and west of the High Desert Corridor alignment as shown on the General Plan Land Use Map and the Zoning Map. In the area south and west of the High Desert Corridor the use of exposed metal can occur through the approval of a Conditional Use Permit and would not be considered a non-conforming use. The use of exposed metal is still restricted in all other areas within the Specific Plan. Expansion of existing development that has exposed metal could occur through approval of a Conditional Use Permit and would be considered a non-conforming use. This alternative was first discussed by Councilmember Coleman at the May 11, 2010 Council meeting. The area where most of the existing development exists could be defined within the Specific Plan and the prohibition of exposed metal and the non-conforming status could be removed from this area. There are approximately twenty-six (26) developed properties within this area and approximately twenty-five (25) outside this area. The development outside the area would be subject to the exposed metal prohibition. This concept would allow for the remaining area to develop without the use of exposed metal. This would alleviate some of the concerns of the existing property owners that are concerned about maintaining high quality design standards to protect investments and maintaining high property values.

SUMMARY & RECOMMENDATION

Staff recommends that the Planning Commission consider the proposed draft resolutions and adopt one of the two with or without modifications.

Prepared By:

Lori Lamson
Assistant Director of Community Development

ATTACHMENTS:

1. Planning Commission Resolution No. 2010-006-A
2. Planning Commission Resolution No. 2010-006-B

PLANNING COMMISSION RESOLUTION NO. 2010-006-A

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT SPECIFIC PLAN NO. 2005-001 AMENDMENT NO. 4 THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN BY AMENDING SECTION III “DEVELOPMENT STANDARDS AND GUIDELINES” AS THEY RELATE ALLOWING EXPOSED METAL WITH THE APPROVAL OF A CONDITIONAL USE 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, 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. 4 is consistent with the General Plan and Municipal Code of the Town of Apple Valley; and

WHEREAS, Specific changes to paragraph 7 “Pre-Fabricated Structures/Metal Buildings” of subsection E “Land Use Regulations” of Section III “Development Standards and Guidelines” of the North Apple Valley Industrial Specific Plan; and

WHEREAS, On July 26, 2010, Specific Plan No. 2005-001 Amendment No. 4 was duly noticed in the Daily Press; 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 4, 2010, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Specific Plan No. 2005-001 Amendment No. 4, receiving testimony from the public and adopted Planning Commission Resolution No. 2010-XXX recommending adoption of this Ordinance; and

WHEREAS, Specific Plan No. 2005-001 Amendment No. 4 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 Specific Plan No. 2005-001 Amendment No. 4 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 Specific Plan No. 2005-001 Amendment No. 4 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend the first subparagraph of paragraph No. 7 “Pre-Fabricated Structures/Metal Buildings” of subsection E “Land Use Regulations” of Section III “Development Standards and Guidelines” to read as follows:

Buildings with exposed metal are discouraged in the Specific Plan Area, with the exception of airplane hangers located on the airport property, in the Industrial-Airport District. Buildings proposing to use exposed metal shall require the approval of a Conditional Use Permit.

Section 4. Amend the third subparagraph of paragraph No. 4 “Existing Development” of subsection E “Special Provisions” of Section II “Land Use” of the North Apple Valley Industrial Specific Plan to read as follows:

Non-conforming commercial or industrial buildings and uses in the Specific Plan area existing as of the adoption of this Specific Plan may continue to operate, and are not required to conform to the provisions of this Specific Plan unless the building or use is abandoned for a period of 6 months. These building or uses may also be replaced if damaged by fire or act of God. Expansion of these buildings or uses will require the approval of a Conditional Use Permit. Buildings proposing to expand the existing use of, or replace, exposed metal, require the approval of a Conditional Use Permit. The use of exposed metal that has been approved with a Conditional Use Permit shall not be considered a non-conforming use.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 4th day of August 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

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Commission at a regular meeting thereof, held on the 4th day of August, 2010 by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ms Patty Hevle, Planning Commission Secretary

PLANNING COMMISSION RESOLUTION NO. 2010-006-B

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT SPECIFIC PLAN NO. 2005-001 AMENDMENT NO. 4 THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN BY AMENDING SECTION III “DEVELOPMENT STANDARDS AND GUIDELINES” AS THEY RELATE ALLOWING EXPOSED METAL IN THE SOUTHWEST PORTION OF THE SPECIFIC PLAN AREA WITH THE APPROVAL OF A CONDITIONAL USE 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, 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. 4 is consistent with the General Plan and Municipal Code of the Town of Apple Valley; and

WHEREAS, Specific changes to paragraph 7 “Pre-Fabricated Structures/Metal Buildings” of subsection E “Land Use Regulations” of Section III “Development Standards and Guidelines” of the North Apple Valley Industrial Specific Plan; and

WHEREAS, On July 26, 2010, Specific Plan No. 2005-001 Amendment No. 4 was duly noticed in the Daily Press; 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 4, 2010, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Specific Plan No. 2005-001 Amendment No. 4, receiving testimony from the public and adopted Planning Commission Resolution No. 2010-XXX recommending adoption of this Ordinance; and

WHEREAS, Specific Plan No. 2005-001 Amendment No. 4 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 Specific Plan No. 2005-001 Amendment No. 4 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 Specific Plan No. 2005-001 Amendment No. 4 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend the first subparagraph of paragraph No. 7 “Pre-Fabricated Structures/Metal Buildings” of subsection E “Land Use Regulations” of Section III “Development Standards and Guidelines” to read as follows:

Buildings with exposed metal are prohibited in the Specific Plan Area, with the exception of airplane hangers located on the airport property, in the Industrial-Airport District and development south and west of the High Desert Corridor alignment, which is generally south of Chipeta Road and west of Navajo Road as shown on the Town of Apple Valley General Plan and Zoning Maps. All buildings proposing to use exposed metal shall require the approval of a Conditional Use Permit.

Section 4. Amend the third subparagraph of paragraph No. 4 “Existing Development” of subsection E “Special Provisions” of Section II “Land Use” of the North Apple Valley Industrial Specific Plan to read as follows:

Non-conforming commercial or industrial buildings and uses in the Specific Plan area existing as of the adoption of this Specific Plan may continue to operate, and are not required to conform to the provisions of this Specific Plan unless the building or use is abandoned for a period of 6 months. These building or uses may also be replaced if damaged by fire or act of God. Expansion of these buildings or uses will require the approval of a Conditional Use Permit. Buildings southwest of the High Desert Corridor alignment, as shown on the Town of Apple Valley General Plan and Zoning Maps, proposing to expand the existing use of, or replace, exposed metal, require the approval of a Conditional Use Permit. In this area, the use of exposed metal that has been approved with a Conditional Use Permit shall not be considered a non-conforming use.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 4th day of August 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 4th day of August, 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, August 4, 2010

CALL TO ORDER

At 6:00 p.m., the regular meeting of the Planning Commission of the Town of Apple Valley for August 4, 2010, was called to order by Chairman Kallen.

ROLL CALL

PLANNING COMMISSION

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

STAFF PRESENT

Lori Lamson, Assistant Director of Community Development; Carol Miller, Senior Planner, Richard Pedersen, Deputy Town Engineer; and Patty Hevle, Planning Commission Secretary.

2. Specific Plan No. 2005-001, Amendment No. 4

Applicant: Town of Apple Valley

Location: The NAVISP is generally located north of Waalew Road, east of Dale Evans Parkway, west of Central Road and south of Quarry Road.

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

Dan Seagondollar, Apple Valley, commented on the prohibition of prefabricated structures. He suggested that the Development Code be amended to adopt some parameters for pre-fabricated structures and that they not be excluded in the NAVISP.

Ms. Lamson clarified that currently pre-fabricated structures, including exposed metal buildings, are prohibited in the NAVISP, with the exception of the airport.

Since there was no one else in the audience requesting to speak to this item, Chairman Kallen closed the public hearing at 8:16 p.m.

Chairman Kallen commented that the Council and the Commission have relaxed some restrictions in the NAVISP due to the economy. He stated he felt it was in the Town's best interest to adopt something that would allow pre-fab buildings of good quality that would apply to all areas, not just in the NAVISP.

Vice-Chairman Tinsley stated that there is a negativity about the term pre-fab and felt it should not be used in the Development Code. Pre-fabricated does not mean that the project will be cheap or ugly and there are a lot of quality pre-fabricated buildings. He felt that each project should be reviewed on a case by case basis to ensure that they are aesthetically pleasing.

Ms. Lamson suggested that they remove the verbage "pre-fabricated structure" and leave it as exposed metal, which would require a Conditional Use Permit.

Chairman Kallen agreed, stating metal buildings should be reviewed to ensure a quality product.

The Commission was in consensus with Option A in the recommendation.

Consensus is Option A with language change replacing pre-fabricated with exposed metal and remove non-conformity.

MOTION:

Motion by Vice-Chairman Tinsley, seconded by Commissioner Cusack to Adopt Planning Commission Resolution 2010-006, Option A, removing the verbage "pre-fabricated structure" from Section 3 and replace with "exposed metal."

ROLL CALL VOTE:

Ayes: Commissioner Cusack
Commissioner Putko
Vice-Chairman Tinsley
Chairman Kallen
Noes: None
Abstain: None
Absent: Commissioner Hernandez
The motion carried by a 4-0-0-1 vote