



**NOTICE AND CALL OF THE
TOWN OF APPLE VALLEY TOWN COUNCIL
SPECIAL MEETING – FEBRUARY 2, 2006**

NOTICE IS HEREBY GIVEN as provided by Section 54956 of the Government Code of the State of California that the Mayor has called a Special Meeting for the purposes listed below.

This Special Meeting is to be held on **February 2, 2006, at 6:30 p.m., in the Council Chambers located at 14955 Dale Evans Parkway, Apple Valley, California.**

AGENDA

PUBLIC PARTICIPATION IS INVITED. If you wish to be heard on any item on the agenda during Council's consideration of that item or earlier if determined by Council, please so indicate by filling out a "REQUEST TO SPEAK" form at the Council meeting. Place the request in the Speaker Request Box on the table near the Town Clerk or hand to the Town Clerk at the Town Council meeting. (G.C. 54954.3 {a}).

The Town of Apple Valley recognizes its obligation to provide equal access to those individuals with disabilities. Please contact the Town Clerk's Office at (760) 240-7000 two working days prior to the scheduled meeting for any requests for reasonable accommodations.

CALL TO ORDER:

ROLL CALL: Council Members Jasper _____, Nassif _____, Sagona _____, Mayor Pro Tem Roelle _____, Mayor Shoup _____.

BUSINESS ITEMS

- Discussion Of Measure "N" Corrective Ballot Measure Language For The Purpose Of Placing Such Language On The June 2006 Ballot, Including "An Initiative Ordinance Of The Town Of Apple Valley Reaffirming And Clarifying The Intent Of Prior Initiative Measure N To Preserve The Density And Minimum Lot Size Restrictions In The Town's Single-Family Residential (R-SF) Land Use Designation."**

Recommended Action:

That the Town Council approve and adopt language reaffirming and clarifying the intent of Measure "N" as set forth in Exhibit "1" to this report and direct staff to place on the February 14, 2006 Town Council agenda any and all actions necessary to place this matter on the June 2006 ballot.

ADJOURNMENT

Time: _____

La Vonda M-Pearson

Dated: February 2, 2006

La Vonda M-Pearson, CMC
Town Clerk

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

DISCUSSION OF MEASURE “N” CORRECTIVE BALLOT MEASURE LANGUAGE FOR THE PURPOSE OF PLACING SUCH LANGUAGE ON THE JUNE 2006 BALLOT, INCLUDING “AN INITIATIVE ORDINANCE OF THE TOWN OF APPLE VALLEY REAFFIRMING AND CLARIFYING THE INTENT OF PRIOR INITIATIVE MEASURE N TO PRESERVE THE DENSITY AND MINIMUM LOT SIZE RESTRICTIONS IN THE TOWN’S SINGLE-FAMILY RESIDENTIAL (R-SF) LAND USE DESIGNATION.”

SUMMARY STATEMENT

The Town Council on January 24, 2006, after considerable discussion and public input, took action directing outside counsel, Rutan & Tucker to draft corrective ballot measure language to be considered by the citizens and Town Council on February 2, 2006 in conformance with the following criteria (included in January 24th staff report):

- A statement or reaffirmation of the findings and purposes of Measure “N”.
- A statement that the electorate passed Measure “N” to preserve the R-SF density and minimum lot size requirement, but not to restrict Town Council from regulating land uses through amendments to the General Plan, or the redesignation of properties.
- A statement or “readoption of the R-SF 2-unit per acre maximum density and 18,000 s.f., minimum lot size requirement which cannot be modified without the consent of the voters until January 1, 2021; and
- A legislative determination that, notwithstanding any law to the contrary (including, but not limited to, Measure “N”), the Town Council has the authority to amend all portions of the Land Use Element, and all other Elements of the General Plan, and adopt General Plan Amendments changing the land use designation of parcels and areas in Apple Valley.

Recommended Action:

That the Town Council approve and adopt language reaffirming and clarifying the intent of Measure “N” as set forth in Exhibit “1” to this report and direct staff to place on the February 14, 2006 Town Council agenda any and all actions necessary to place this matter on the June 2006 ballot.

Proposed by: Director of Economic & Community Development **Item Number** _____

T. M. Approval: _____ **Budgeted Item** **Yes** **No** **N/A**

Statement - Continued
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Exhibit "1" is a draft initiative Ordinance prepared by Joel Kuperberg of Rutan & Tucker which, in the opinion of staff, fully complies with the direction provided by the Town Council at its January 24, 2006 meeting. Exhibit "2" is a copy of Measure "N" adopted by the voters of Apple Valley in November 1999 and has been provided to assist the citizens, Town Council and staff in comparing the approved ballot measure language with that being proposed by Mr. Kuperberg and staff for inclusion on the June 2006 ballot.

If the language in Exhibit "1", or similar language, is approved and adopted by the Town Council and, ultimately, approved by the voters, the Town Council's land use regulatory authority as it relates to General Plan Amendments will be fully restored and various programs, projects and activities relating to Vision 2010 and normal General Plan maintenance activities can occur without further interruption.

INITIATIVE ORDINANCE NO. 308

AN INITIATIVE ORDINANCE OF THE TOWN OF APPLE VALLEY REAFFIRMING AND CLARIFYING THE INTENT OF PRIOR INITIATIVE MEASURE N TO PRESERVE THE DENSITY AND MINIMUM LOT SIZE RESTRICTIONS IN THE TOWN'S SINGLE-FAMILY RESIDENTIAL (R-SF) LAND USE DESIGNATION

The people of the Town of Apple Valley do ordain as follows:

Section 1: Findings and Purpose

A. The unique rural character of the Town of Apple Valley and the quality of life of its residents depend on maintaining the development standards for single family homes in the "Single-Family Residential R-SF" land use designation of the Town of Apple Valley General Plan Land Use Element. The Single-Family Residential R-SF land use designation restricts density to no more than two dwelling units per net acre, and requires a minimum lot size of 18,000 square feet. These provisions not only preserve this unique character and quality of life, but also protect the available water supply, prevent uncontrollable traffic congestion, and avoid school overcrowding.

B. On November 2, 1999, the voters of the Town of Apple Valley passed "Measure N," with the intent of preserving the two unit per net acre maximum density and 18,000 square foot minimum lot size requirement for the Single-Family Residential R-SF land use designation in the Land Use Element of the Town of Apple Valley General Plan. However, serious questions have been raised whether Measure N may have had the unintended effect of preventing any change to the Land Use Element, or any General Plan amendment to change the land use designation of any property in the Town of Apple Valley, unless such change or amendment is approved by the voters.

C. The purpose of this Initiative Measure is to reaffirm the intent of Measure N to preserve the two unit per net acre maximum density and 18,000 square foot minimum lot size requirements for the Single-Family Residential R-SF land use designation in the Land Use Element of the Town of Apple Valley General Plan, while clarifying that the Apple Valley Town Council retains the authority to take final action on all other local land use regulatory matters.

Section 2: Clarification of Measure N

A. Section 2.A of Measure N (which readopted, until December 31, 2020, the Goals and Policies of the Land Use Element of the Town of Apple Valley General Plan as adopted on September 10, 1991) is hereby repealed.

"Exhibit 1"

B. Section 2.B of Measure N (which readopted, until December 31, 2020, the land use designations, Land Use Policy Map, and the Equestrian Neighborhood Map of the Land Use Element of the Town of Apple Valley General Plan as adopted on September 1, 1991 and as amended through January 1, 1999), is hereby repealed.

C. Section 3.C of Measure N (which, until December 31, 2020, requires voter approval for any change to the 2-unit per net acre maximum density and 18,000 square foot minimum lot size requirement for the Single-Family Residential R-SF land use designation in the Land Use Element of the Town of Apple Valley General Plan) is hereby reaffirmed and readopted until December 31, 2020.

Section 3: General Plan Amendments

A. Policy LU-3.10 is hereby added to the Land Use Element of the Town of Apple Valley General Plan, as follows:

"Policy LU-3.10: In order to preserve the unique rural lifestyle in the Town of Apple Valley, the following special restrictions on changes to the Single-Family Residential R-SF land use designation shall not be amended or repealed without the approval of the voters until December 31, 2020:

a. Until December 31, 2020, the maximum building intensity for the Single-Family Residential R-SF land use designation (1 dwelling unit per 0.4 to 0.9 net acres) shall not be amended or repealed unless such amendment, or repeal is approved by a vote of the voters of the Town of Apple Valley; and

b. Until December 31, 2020, the 18,000 sq. ft. net minimum lot size requirement for the Single-Family Residential R-SF land use designation shall not be amended or repealed unless such amendment or repeal is approved by a vote of the voters of the Town of Apple Valley."

B. Policy LU-3-11 is hereby added to the Land Use Element of the Town of Apple Valley General Plan, as follows:

"Policy LU-3.11: Except as set forth in Policy LU-3.10 with respect to the maximum net density and minimum lot size requirement for the Single-Family Residential R-SF land use designation, the Town Council retains the authority, in accordance with California law, to exercise all land use regulatory and approval authority with respect to lands and uses within the Town, including but not limited to the following:

a. The authority to amend or repeal any goal, policy, land use designation or other provision of the Land Use Element or any other Element of the General Plan;

b. The authority to amend or modify the Land Use Policy Map or any other map, table or figure in the General Plan;

c. The authority to amend the General Plan to change the land use designation of any property or area;

d. The authority to amend or modify any provision of the Apple Valley Zoning Code; and

e. The authority to approve zone changes and change the zoning designation of any property or area."

Section 4: Effective Date

This Ordinance shall take effect ten days following the date on which the Town Council of the Town of Apple Valley declares that this Initiative Ordinance was adopted by a majority of the voters voting on the measure at the special municipal election held on June 6, 2006 .

Section 5: Severability

Should any portion of this Initiative Ordinance be found unlawful or invalid by a court of competent jurisdiction, the remaining portions of the Initiative Ordinance shall remain in full force and effect.

Section 6: Amendment or Repeal

This Initiative Ordinance may be amended or repealed only by a majority of the voters of the Town of Apple Valley voting on the matter at a special or general municipal election.

Full Text of Ordinance

The people of the Town of Apple Valley do hereby ordain as follows:

Section 1. Findings and Purpose.

- A. The protection of existing rural atmosphere and equestrian lifestyle is of critical importance to the present and future residents of the Town of Apple Valley.
- B. The unique character of the Town of Apple Valley and quality of life of Town residents depend on the protection of the minimum residential lot size of one-half (1/2) acre. The protection of 1/2 acre residential lot size not only ensures this unique character and quality of life, but also protects the available water supply, contributes to flood control, and sustains the protection of wildlife, environmentally sensitive areas, irreplaceable natural resources, and open spaces.
- C. Many residents of the Town of Apple Valley maintain an equestrian lifestyle. The interest of the Town and its residents to preserve this lifestyle is indicated by Council Resolution 89-63. The need to provide facilities for the use and enjoyment of equestrians is an issue addressed in the Circulation Element of the Town of Apple Valley General Plan.
- D. Reducing lot size to allow four (4) units per acre will threaten the public health, safety, and welfare by causing associated or increased air pollution due to traffic congestion, and potentially serious water problems such as pollution, depletion and sedimentation of available water resources. Such increased density encroachment will result in both unnecessary and expensive increased public services and facilities that the taxpayers cannot afford.
- E. The purpose of this initiative is to ensure that until December 31, 2020, the foregoing General Plan provisions governing intent and maximum building intensity may not be changed except by vote of the people, and that the provisions governing minimum lot size may not be changed to reduce the minimum lot size of one-half (1/2) acre except by vote of the people.

Section 2. General Plan Amendment.

- A. The Residential Lot Size initiative hereby reaffirms and readopts, until December 31, 2020, Goal LU-1, Policy LU-1.1, LU-1.2, LU-1.3, LU-1.4; Goal LU-2, Policy LU-2.1, LU-2.2, LU-2.3, LU-2.4, LU-2.5, LU-2.6; Goal LU-3, Policy LU-3.1, LU-3.2, LU-3.3, LU-3.4, LU-3.5, LU-3.6, LU-3.7, LU-3.8, LU-3.9, LU-3.10; Goal LU-4, Policy LU-4.1, LU-4.2, LU-4.3, LU-4.4, LU-4.5, LU-4.6, LU-4.7; Goal LU-5, Policy LU-5.1, LU-5.2, LU-5.3; Goal LU-6, Policy LU-6.1, LU-6.2, LU-6.3, LU-6.4 of the Land Use Element of the Town of Apple Valley General Plan adopted on September 10, 1991.

“Exhibit 2”
- B. In addition, the initiative hereby reaffirms and readopts, until December 31, 2020, the Land Use Designations and Land Use Policy Map (figure LU-3), Equestrian Neighborhood Map of the Land Use Element of the Town of Apple Valley General Plan adopted on September 10, 1991, as amended through January 1, 1999.
- C. Finally, the text of Single-Family Residential (R-SF) (1 dwelling unit per 0.4 to 0.9 net acres) of the Land Use Element of the Town of Apple Valley General Plan adopted on September 10, 1991, shall be amended to add:

- 1.0. Limitations on General Plan Amendments Relating to Single-Family Residential (R-SF) (1 dwelling unit per 0.4 to 0.9 net acres).
 - a. Until December 31, 2020, the provisions governing the intent and maximum building intensity for Single-Family Residential R-SF (1 dwelling unit per 0.4 to 0.9 net acres) set forth in the Land Use Designations and Land Use Policy Map of the Land Use Element of the Town of Apple Valley General Plan adopted on September 10, 1991, as amended through January 1, 1999, (hereinafter the "Land Use Element") shall not be amended unless such amendment is approved by vote of the people.
 - b. Until December 31, 2020, the provisions governing minimum lot size for land designated Single-Family Residential R-SF set forth in the Land Use Designation of the Land Use Element shall not be amended to reduce minimum lot sizes unless such amendment is approved by vote of the people.**

Section 3. Implementation.

- A. Upon the effective date of this initiative, the initiative shall be deemed inserted in the Land Use Element of the Town of Apple Valley General Plan as an amendment thereof, except that if the four amendments of the mandatory Elements of the General Plan permitted by state law for any given calendar year have already been utilized in 1999 prior to the effective date of this initiative, this General Plan amendment shall be deemed inserted in the Town of Apple Valley General Plan on January 1, 2000. At such time as this General Plan amendment is inserted in the Town of Apple Valley General Plan (hereinafter, the "insertion date") any provisions of the Town Zoning Ordinance inconsistent with that amendment shall not be enforced to the extent of the inconsistency.
 - 1.0. Within one hundred-eighty (180) days of the insertion date, the Town shall complete such revisions of its General Plan, including but not limited to, the General Plan Land Use Map adopted by the Town Council on September 10, 1991, as amended through January 1, 1999, and accompanying text, as are necessary to achieve consistency with all provisions of this initiative.
 - 2.0. Also within one hundred-eighty (180) days of the insertion date, the Town shall complete such revisions of its Zoning Ordinance and other land use regulations as are necessary to conform to all provisions of the initiative.

Section 4. Restrictions.

This initiative shall not restrict any landowner from requesting, through normal Town of Apple Valley procedures, any zone change consistent with the Land Use Element of the Town of Apple Valley General Plan adopted on September 10, 1991, as amended through January 1, 1999.

Section 5. Severability.

If any portion of this initiative is declared invalid by a court of law, the remaining portions are to be considered valid.

Section 6. Amendment or Repeal.

This initiative may be amended or repealed only by the voters at a Town of Apple Valley election.