



Town Council Agenda Report

Date: October 8, 2019 Item No. 6
To: Honorable Mayor and Town Council
Subject: SECOND READING ORDINANCE 518 OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY MODIFYING PROVISIONS RELATING TO ACCESSORY DWELLING UNITS LOCATED ON CORNER LOTS AND MODIFY THE DEFINITION OF FRONT LOT LINE.
From: Douglas Robertson, Town Manager
Submitted by: Pam Cupp, Senior Planner
Planning Department
Budgeted Item: Yes No N/A

RECOMMENDED ACTION:

Adopt Ordinance No. 518

SUMMARY:

At its September 24, 2019 meeting, the Town Council reviewed and introduced Ordinance No. 518 that will add site development standards for accessory dwelling units located on corner lots and revise the definition for a front lot line. Ordinance No. 518 has been scheduled for adoption at the October 8, 2019 Town Council Meeting.

Fiscal Impact:

Not Applicable

Attachments:

Ordinance No. 518

ORDINANCE NO. 518

AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING CHAPTER 9.29 “SPECIFIC USE REGULATIONS” AS IT PERTAINS TO DETACHED ACCESSORY DWELLING UNITS ON CORNER LOTS AND CHAPTER 9.08 “DEFINITIONS” AS IT RELATES TO FRONT LOT LINE.

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

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

WHEREAS, On May 1, 2019, the Town Council initiated a Development Code Amendment, to create provisions for accessory dwelling units located on corner lots;

WHEREAS, Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

WHEREAS, On August 7, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2019-008, receiving testimony from the public and adopting Planning Commission Resolution No. 2019-008 forwarding a recommendation to the Council; and

WHEREAS, Specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending Chapter 9.29 “Specific Use Regulations” as it pertains to detached accessory structures on corner lots and Chapter 9.08 “Definitions” as it relates to front lot lines; and,

WHEREAS, Development Code Amendment No. 2019-008 is consistent with the Town's General Plan and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley and shall promote the health, safety, and general welfare of the citizens of the Town of Apple Valley; and

WHEREAS, The project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, On September 13, 2019, Development Code Amendment No. 2019-008 was duly noticed in the Apple valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, On September 24, 2019, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2019-008, receiving testimony from the public and

NOW, THEREFORE, the Town Council of the Town of Apple Valley, State of California, does ordain as follows:

Section 1. Find that the changes proposed by Development Code Amendment No. 2019-008 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

Section 2. Pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the Code amendment is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as with the proposed Code Amendment, that there is no possibility that the proposal approved under Development Code Amendment No. 2019-008 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Section 9.29.120 “Accessory Dwelling Units” by amending subsection E “Detached Accessory Dwelling Units” Item 2 as follows:

“2. For lots less than two and one-half (2-1/2) acres in size, the accessory dwelling unit shall comply with the following:

- a. Shall be located to the rear of the primary dwelling unit;
- b. On corner lots, the minimum front or street side yard setback of the accessory dwelling unit shall be at least ten (10) feet greater than the primary dwelling or have its access from the street opposite that of the primary dwelling. Notwithstanding the foregoing, an accessory dwelling unit may be located in front of the primary dwelling when architectural consistent.
- c. The maximum habitable floor area shall be fifty (50) percent of the total area under roof of the primary dwelling, except that lots of one (1) acre or more in size may be permitted a larger accessory dwelling unit with the approval of a Minor Development Permit.”

Section 4. Amend the definition for Lot Line, Front of Chapter 9.08 “Definitions” as follows:

“A. **Front.** On an interior lot, the line separating the parcel from the street right-of-way. On a corner lot, the lot line along the narrowest street frontage. On a through lot, the lot line abutting the street providing the primary access to the lot. On a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained;”

Section 5. Notice of Adoption. The Town Clerk of the Town of Apple Valley shall certify to the adoption of this ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under Section 36933 of the Government Code of the State of California.

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

Section 7. Severability. If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications and, to this end, the provisions of this Ordinance are declared to be severable.

Approved and Adopted by the Town Council and signed by the Mayor and attested to by the Town Clerk this 8th day of October, 2019.

Honorable Larry Cusack, Mayor

ATTEST:

Ms. La Vonda M. Pearson, Town Clerk

Approved as to form:

Approved as to content:

Mr. Thomas Rice, Town Attorney

Mr. Douglas B. Robertson, Town Manager



Planning Commission Agenda Report

DATE:	August 7, 2019	Item No. 5
CASE NUMBER:	Development Code Amendment No. 2019-008	
APPLICANT:	Town of Apple Valley	
PROPOSAL:	An amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by modifying provisions relating to accessory dwelling units located on corner lots. Also under consideration are modifications to the existing definition of front lot line.	
LOCATION:	Residential Zoning Districts Town-wide	
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.	
PREPARED BY:	Ms. Pam Cupp, Senior Planner	
RECOMMENDATION:	Adopt Planning Commission Resolution No. 2019-008.	

BACKGROUND

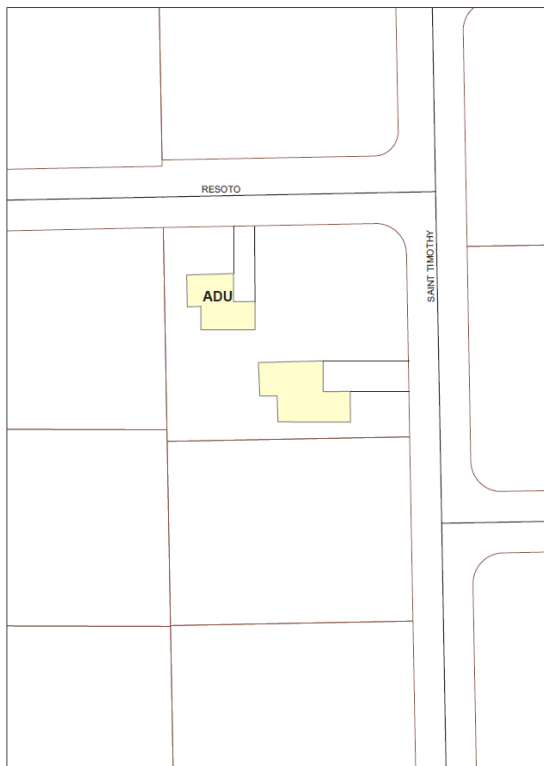
On May 8, 2018, Town Council adopted Ordinance No. 502 establishing development standards for accessory dwelling units. This was necessary to comply with new State law requirements. On March 26, 2019, the Town Council adopted Ordinance No. 504 which modified the site development standards for accessory structures and accessory dwelling units. The Ordinance included provisions that accessory dwelling units must be located to the rear of the primary structure. The subject of accessory dwelling units was again raised during the public comments at the May 1, 2019 joint meeting of the Town Council and Planning Commission. Staff was directed by the Council to work with the Planning Commission to add specific language to the Development Code to establish standards for accessory dwelling units on corner lots. Staff is also proposing a

modification to the formal definition of a front lot line based upon an existing discrepancy within the Code.

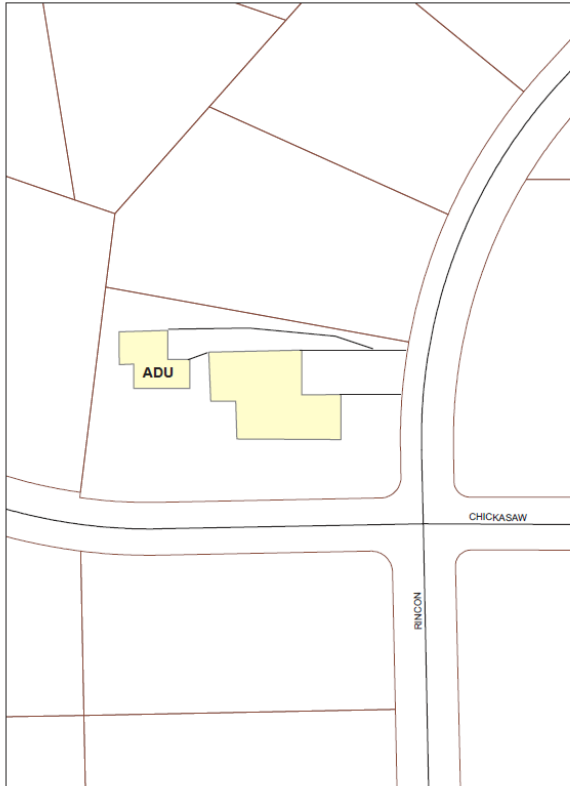
ANALYSIS

Government Code Section 65852.2 allows local governments to apply development standards and may designate where accessory dwelling units are permitted. Accessory dwelling units located within existing structure must be allowed in all single-family residential zones. For accessory dwelling units consisting of new additions or construction of a detached accessory structure, development standards can be established with certain limitations. However, standards and allowable areas must not be designed or applied in a manner that burdens the development of accessory dwelling units and should maximize the potential for accessory unit development.

The Town's current Code states that accessory dwelling units located on lots less than two and one-half (2-1/2) acres in size must be located to the rear of the primary dwelling unit. Depending upon orientation of the primary dwelling, this development standard may preclude the construction of an accessory dwelling unit on a corner lot. Previous analysis and discussion did not include corner lot scenarios. There are several possible plotting variations that should be given consideration.



ADU to rear of primary with opposing street access.



ADU to the rear of primary with shared access.

ADU to side of primary within the rear half of the lot with same street access.





ADU to side within the front half of the lot with opposing street access.

Staff is offering for the Commission’s consideration a modification to Section 9.29.120 “Accessory Dwelling Units” by amending subsection E “Detached Accessory Dwelling Units” Item 2, which as proposed, would permit all of the above scenarios:

“ 2. For lots less than two and one-half (2-1/2) acres in size, the accessory dwelling unit shall **comply with the following:**

- a. **Shall** be located to the rear of the primary dwelling unit;
- b. **On corner lots, the minimum front or street side yard setback of the accessory dwelling unit shall be at least ten (10) feet greater than the primary dwelling or have its access from the street opposite that of the primary dwelling.**
- c. **The maximum habitable floor area shall be fifty (50) percent of the total area under roof of the primary dwelling, except that lots of one (1) acre or more in size may be permitted a larger accessory dwelling unit with the approval of a Minor Development Permit.**

As part of the overall cleanup of the Development Code, the Commission should examine the existing definitions relating to “lots”. There is a discrepancy between the definition of “lot frontage” and “front lot line” when both should have similar definitions.

Lot Frontage

The portion of the lot contiguous to the street. *On corner lots the narrowest frontage*

shall be considered the front of the lot. On a lot located on a cul-de-sac, curved street, or dead-end street with a curved turn-around, the frontage shall be measured as the chord drawn between the terminuses of the side property lines at their intersection with the street right-of-way (Figure 9.08-3).

Lot Line

Any boundary of a lot. The classifications of lot lines are (Figure 9.08-14):

A. **Front.** On an interior lot, the line separating the parcel from the street right-of-way. On a corner or through lot, the lot line abutting the street providing the primary access to the lot. On a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained;

Staff is recommending a modification to the definition of a front lot line as follows:

A. **Front.** On an interior lot, the line separating the parcel from the street right-of-way. On a corner lot, the lot line along the narrowest street frontage. On a ~~or~~ through lot, the lot line abutting the street providing the primary access to the lot. On a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained;

FINDINGS

An amendment to the Development Code requires that the Planning Commission address two (2) required "Findings", as listed within Development Code Section 9.06.060. For Commission consideration, the required Findings are listed below, along with a comment addressing each. If the Commission concurs with these comments, they may be adopted and forwarded to the Council for its consideration of the Development Code Amendment. If the Commission wishes modifications to the offered comments, after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment recommendations can be included into the information forwarded to the Council for consideration.

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. The Housing Element encourages housing for special needs households, including the elderly, single parent households, large households, the disabled and the homeless. Additionally, the Housing Element encourages the development of second units. Development Code Amendment No. 2019-008 will provide standards for accessory dwelling units that will encourage additional development while providing quality site planning and design that enhances the aesthetics and economy of the Town. Development Code Amendment will further provide definition consistency as related to the front of a lot.

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 Development Code Amendment No. 2019-008 will provide additional opportunity for the development of accessory dwelling units on a corner lot and will clear any discrepancies relating to front lot lines.

NOTICING

Development Code Amendment No. 2019-008 was advertised as a public hearing in the Apple Valley News newspaper on August 2, 2019.

ENVIRONMENTAL REVIEW

Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.

RECOMMENDATION

Following receipt of public input and discussion by the Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2019-003 forwarding a recommendation that the Town Council amend Title 9 "Development Code" of the Town of Apple Valley Municipal Code as outlined within the staff report.

PLANNING COMMISSION RESOLUTION NO. 2019-008

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2019-008 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING CHAPTER 9.29 “SPECIFIC USE REGULATIONS” AS IT PERTAINS TO DETACHED ACCESSORY DWELLING UNITS ON CORNER LOTS AND CHAPTER 9.08 “DEFINITIONS” AS IT RELATES TO FRONT LOT LINE.

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, specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending Chapter 9.29 “Specific Use Regulations” as it pertains to detached accessory structures on corner lots and Chapter 9.08 “Definitions” as it relates to front lot lines; and,

WHEREAS, on July 26, 2019, Development Code Amendment No. 2019-008 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, 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; and

WHEREAS, on August 7, 2019 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2019-008 receiving testimony from the public; and

WHEREAS, Development Code Amendment No. 2019-008 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.

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, does hereby resolve, order and determine 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. 2019-008 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

Section 2. 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.

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Approved and Adopted by the Planning Commission of the Town of Apple Valley this 7th day of August 2019.

Jason Lamoreaux, Chairman

ATTEST:

I, Maribel Hernandez, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 7th day of August 2019, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ms. Maribel Hernandez, Planning Commission Secretary