



Town Council Agenda Report

Date: January 14, 2020 Item No. 11

To: Honorable Mayor and Town Council

Subject: SECOND READING OF ORDINANCE 524, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE TO ALLOW LEGAL, NONCONFORMING, MULTI-FAMILY PROJECTS CONSISTING OF TWO (2) TO FOUR (4) UNITS LOCATED WITHIN THE SINGLE-FAMILY RESIDENTIAL (R-SF) ZONING DESIGNATION TO BE FULLY REPAIRED OR REPLACED IN THE EVENT OF FIRE OF OTHER DAMAGING EVENT.

From: Douglas Robertson, Town Manager

Submitted by: Pam Cupp, Senior Planner
Planning Department

Budgeted Item: Yes No N/A

RECOMMENDED ACTION

Adopt Ordinance No. 524

BACKGROUND

At its December 10, 2019 meeting, the Town Council introduced Ordinance No. 524 that modifies the Development Code to allow legal, nonconforming, multi-family structures consisting of two (2) to four (4) units that are located within the Single-Family Residential (R-SF) zoning designation. Ordinance No. 524 has been scheduled for adoption at the January 14, 2020 Town Council meeting.

FISCAL IMPACT

None.

ATTACHMENTS

Ordinance No. 524

ORDINANCE NO. 524

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 9.07 "NONCONFORMING USES AND STRUCTURES" TO ALLOW LEGAL, NONCONFORMING MULTI-FAMILY STRUCTURES CONTAINING UP TO FOUR (4) UNITS AND LOCATED WITHIN THE SINGLE-FAMILY RESIDENTIAL (R-SF) ZONING DESIGNATION TO BE REPAIRED OR REPLACED IN THE EVENT OF FIRE OR OTHER CALAMITY.

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 allow legal nonconforming multi-family structures located within the Single-Family Residential (R-SF) zoning designation the opportunity to be completely repaired or replaced in the event of a fire or other calamity;

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 November 6, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2019-015, receiving testimony from the public and adopting Planning Commission Resolution No. 2019-018 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 9.07 "Nonconforming Uses and Structures" to allow legal, nonconforming multi-family structures containing up to four (4) units and located within the Single-Family Residential (R-SF) zoning designation to be repaired or replaced in the event of fire or other calamity; and.

WHEREAS, Development Code Amendment No. 2019-015 is consistent with the Town's General Plan and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley and shall promote the health, safety, and general welfare of the citizens of the Town of Apple Valley; and

WHEREAS, The project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA,

which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, On November 29, 2019, Development Code Amendment No. 2019-015 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, On December 10, 2019, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2019-015, receiving testimony from the public.

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. 2019-015 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. 2019-015 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend paragraph 3 of Subsection 9.07.030(D) "Repair of Damaged or Partially Destroyed Structures" of Chapter 9.07 "Nonconforming Uses and Structures" to read as follows:

"3. **Exception.** Legal nonconforming single-family homes located in the R-M or M-U zones or legal nonconforming multi-family projects consisting of no more than four (4) units located within the R-SF zone damaged or destroyed by fire or other calamity may be repaired as needed, and if replaced, shall meet the requirements of subsection 13b "Minimum dwelling unit size" of Table 9.28.040-A "Site Development Standards".

Section 4. 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 5. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 6. 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 14th day of January 2020.

Honorable Scott Nassif, 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