



Get a Slice of the Apple.

**TOWN OF APPLE VALLEY  
PLANNING COMMISSION AGENDA**

**WEDNESDAY, APRIL 7, 2021**

**Regular Meeting 6:00 p.m.**

***Town Council Chambers***  
**14955 Dale Evans Parkway**

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**PLANNING COMMISSION MEMBERS**

Joel Harrison, Chairman  
Mike Arias Jr., Vice-Chairman  
Bruce Kallen, Commissioner  
B.R. "Bob" Tinsley, Commissioner  
Jared Lanyon, Commissioner

**PLANNING DIVISION OFFICE: (760) 240-7000 Ext. 7200**  
**[www.AVPlanning.org](http://www.AVPlanning.org)**

***Monday - Thursday 7:30 a.m. to 5:30 p.m.***  
***Alternating Fridays 7:30 a.m. to 4:30 p.m.***



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**TOWN OF APPLE VALLEY  
PLANNING COMMISSION AGENDA  
REGULAR MEETING  
WEDNESDAY APRIL 7, 2021 – 6:00 P.M.**

**IMPORTANT COVID-19 NOTICE**

IN AN EFFORT TO PROTECT PUBLIC HEALTH AND PREVENT THE SPREAD OF COVID-19 (CORONAVIRUS) AND TO ENABLE APPROPRIATE SOCIAL DISTANCING, THE PLANNING COMMISSION MEETING WILL NOT BE OPEN TO PUBLIC ATTENDANCE.

THE TOWN OF APPLE VALLEY ENCOURAGES THE PUBLIC TO VIEW THIS PLANNING COMMISSION MEETING ON TELEVISION OR ONLINE. THE MEETING IS BROADCAST LIVE ON FRONTIER CHANNEL 29 OR CHARTER SPECTRUM CHANNEL 186 AND LIVE STREAMED ONLINE AT [APPLEVALLEY.ORG](http://APPLEVALLEY.ORG)

MEMBERS OF THE PUBLIC WHO WISH TO COMMENT ON MATTERS BEFORE THE PLANNING COMMISSION MAY PARTICIPATE IN THE FOLLOWING WAYS:

(1) COMMENTS AND CONTACT INFORMATION CAN BE EMAILED TO [PUBLICCOMMENT@APPLEVALLEY.ORG](mailto:PUBLICCOMMENT@APPLEVALLEY.ORG) BY 3:00 P.M. THE DAY OF THE SCHEDULED MEETING TO BE INCLUDED IN THE WRITTEN RECORD;

(2) A REQUEST TO SPEAK CAN BE EMAILED TO [PUBLICCOMMENT@APPLEVALLEY.ORG](mailto:PUBLICCOMMENT@APPLEVALLEY.ORG) AND AT THE TIME OF THE REQUESTED AGENDA ITEM, THE PLANNING COMMISSION SECRETARY WILL PLACE A PHONE CALL TO THE COMMENTER AND ALLOW THEM TO SPEAK TO THE COMMISSION VIA SPEAKER PHONE DURING THE LIVE MEETING FOR UP TO THREE MINUTES. PLEASE INDICATE ON WHICH ITEM YOU WISH TO SPEAK.

Materials related to an item on this agenda, submitted to the Commission after distribution of the agenda packet, are available for public inspection in the Town Clerk's Office at 14955 Dale Evans Parkway, Apple Valley, CA during normal business hours. Such documents are also available on the Town of Apple Valley website at [www.applevalley.org](http://www.applevalley.org) subject to staff's ability to post the documents before the meeting.

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.

## **REGULAR MEETING**

The Regular meeting is open to the public and will begin at 6:00 p.m.

## **CALL TO ORDER**

## **ROLL CALL**

Commissioners: Kallen\_\_\_\_\_; Tinsley\_\_\_\_\_; Lanyon \_\_\_\_\_;  
Vice-Chairman Arias\_\_\_\_\_;Chairman Harrison\_\_\_\_\_

## **PLEDGE OF ALLEGIANCE**

## **APPROVAL OF MINUTES - NONE**

## **PUBLIC COMMENTS**

Anyone wishing to address an item not on the agenda, or an item that is not scheduled for a public hearing at this meeting, may do so at this time. California State Law does not allow the Commission to act on items not on the agenda, except in very limited circumstances. Your concerns may be referred to staff or placed on a future agenda.

## **PUBLIC HEARING ITEMS**

- 1. Specific Plan No. 2012-01, Amendment No. 3 (TM 14484).** A request to amend the Jess Ranch PUD to allow the future development of Lot Nos. 69 through 78 within recorded Tract Map No. 14484 to revert from single family residential lots to recreation vehicle (RV) lots in accordance with the medium density residential development standards of the Jess Ranch PUD, including the RV resort standards.

**APPLICANT:** Mr. Robert Simpson

**LOCATION:** The Jess Ranch Lakes RV Resort is located on the northeast corner of Jess Ranch Parkway and Apple Valley Road.

## **ENVIRONMENTAL**

**DETERMINATION:** It has been 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:** Adopt Planning Commission Resolution No. 2021-003

2. **Tentative Tract Map No. 20409/Reversion to Acreage No. 2021-001.** A request to approve Tentative Tract Map No. 20409 being a reversion of acreage of Tract Map No. 17453 by combining eight (8) lots to one (1) original parcel.

**APPLICANT:** Merrell-Johnson Engineering Inc., representing Justin Noss

**LOCATION:** On the north side of Geronimo Road, approximately 150 west of Highline Drive (APNs: 3087-191-60 through 69)

**ENVIRONMENTAL**

**DETERMINATION:** Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15305(c) (Reversion to Acreage), the proposed request is Exempt from further environmental review.

**RECOMMENDATION:** Approval

3. **Extension of time for Development Permit No. 2015-005, Special Use Permit No. 2015-015, Tentative Parcel Map No. 19575 and Variance No. 2016-001.** This is a request for a one (1) year time extension of Tentative Parcel Map No. 19575 of a previously approved subdivision of eight (8) acres into eight (8) parcels; and a two (2) year time extension for Development Permit No. 2015-005, Special Use Permit No. 2015-015, Tentative Parcel Map No. 19575 and Variance No. 2016-001 (Apple Valley Gateway)

**APPLICANT:** Mr. Steven Farmer

**LOCATION:** Located at the northeast corner of Interstate 15 and Dale Evans Parkway, north of Willow Springs Road; APNs: 0472-232-20 & 21.

**ENVIRONMENTAL**

**DETERMINATION:** There is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for this project and adopted by the Planning Commission on April 6, 2016. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.

**RECOMMENDATION:** Approval

## **OTHER BUSINESS**

4. Interpretation of Accessory Buildings and Structures in Residential Zones.

## **PLANNING COMMISSION COMMENTS**

## **STAFF COMMENTS**

## **ADJOURNMENT**

The Planning Commission will adjourn to its next regularly scheduled Planning Commission meeting on April 21, 2021.



## Planning Commission Agenda Report

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<b>DATE:</b>	April 7, 2021	<b>Item No. 1</b>
<b>CASE NUMBER:</b>	Specific Plan No. 2012-01, Amendment No. 3 (TM 14484)	
<b>APPLICANT:</b>	Mr. Robert Simpson	
<b>PROPOSAL:</b>	A request to amend the Jess Ranch PUD to allow the future development of Lot Nos. 69 through 78 within recorded Tract Map No. 14484 to revert from single family residential lots to recreation vehicle (RV) lots in accordance with the medium density residential development standards of the Jess Ranch PUD, including the RV resort standards.	
<b>LOCATION:</b>	The Jess Ranch Lakes RV Resort is located on the northeast corner of Jess Ranch Parkway and Apple Valley Road.	
<b>ENVIRONMENTAL DETERMINATION:</b>	It has been 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.	
<b>CASE PLANNER:</b>	Pam Cupp, Senior Planner	
<b>RECOMMENDATION:</b>	Adopt Planning Commission Resolution No. 2021-003	

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### PROJECT SITE AND DESCRIPTION

- A. Project Size:  
Although not all developed, the overall project area encompasses approximately thirty-five (35) acres. The proposal involves ten (10) lots.

**B. Site Characteristics:**

The subject area consists of a partially developed RV resort subdivision. Approximately seventy (70) lots comprise the area that has been developed as RV lots with the remaining lots within the subdivision as undeveloped. The existing amenities include a laundry facility, clubhouse and pool area.

**BACKGROUND**

The original Jess Ranch Planned Unit Development (PUD) was approved by the County of San Bernardino in 1981 with subsequent Amendments by the Town of Apple Valley in 1990 (Amendment No. 2), 1994 (Amendment No. 2), and 1998 (Amendment No. 3). Among other changes, Amendment No. 3 allowed a RV Resort within the Medium Density Residential (MDR) land use classification for Phase "Y" (TM No. 14484) with a Commercial Recreation Overlay, now known as the Jess Ranch Lakes Recreational Vehicle Resort.

Tract Map No. 14484 consists of 228 lots with private streets and common open space managed by the Homeowners Association. When Tract Map No. 14484 was approved in 1991 and phases recorded in 1993 and 1994, it was in conformance with the Medium Density Residential (MDR) standards as a single-family residential development. That changed in 1998 with Amendment No. 3 that placed a Commercial Recreation Overlay over Phase "Y" (TM No. 14484) to allow the subdivision to be developed as a RV resort for full-time RVers. This land use change required no amendment to the recorded map.

In May of 2015, an amendment specific to Tract Map No. 14484 was approved to remove the Commercial Recreation Overlay from 146 of the lots to allow for the future development of single-family homes in accordance with the Medium Density Residential (MDR) development standards of the Jess Ranch PUD. In March 2018, an amendment was approved to re-apply the Commercial Recreation Overlay to nine (9) of these lots, allowing Lot Nos. 196 thru 204 to again be developed as RV lots.

The applicant is seeking an approval to place the Commercial Recreation Overlay upon ten (10) additional lots. The applicant met with staff to discuss the proposal prior to the application submittal. Staff's recommendation was that any change back to RV lots would still have to maintain a logical break between lots used for RVs and single-family homes due to their contrasting characteristics.

**ANALYSIS**

As indicated above, an amendment was approved to allow the future development within the recorded Tract Map to change from a recreation vehicle (RV) lot development to single-family residential. The applicant and owner of the ten (10) lots in question is now requesting the lots be taken out of the single-family residential portion and revert to RV lots. The area in question includes Lot Nos. 69 thru 78. If approved, the RV resort portion would include Lot Nos. 1 thru 78, 196 thru 204 and 220 thru 227. The single-family residential portion, without the Commercial Recreation Overlay, would include Lot Nos. 79 thru 195 and Lots 210 thru 219. The attached exhibit delineates the proposed modification.

As with the previous Amendment analysis, for any changes to be supported by staff there had to be a delineation between project areas that made for a logical break and then Conditions of Approval for TM No. 14484 be modified accordingly. In review of the proposal, the separation between uses continues to be logical, and in fact eliminates some of the awkwardness of the opposing uses facing one another under the previous Amendment. The subject lots are located on Tournament Lane and face other RV lots and amenities. There will be a mid-block transition in uses; however, this break occurs at the intersection of Augusta Circle and Tournament Lane.

Prior to the issuance of a permit for either development type, whichever occurs first, shall construct a six (6)-foot high block wall, outside of any front or street side setback that separate the two development types. This would include the dividing property line between Lot Nos. 78 and 79.

Although this is a Specific Plan Amendment which just involves changes to text within the document, changes to the Conditions of Approval for the underlying map are necessary. Therefore, staff is recommending that, in addition to the changes to the PUD document, the Conditions of Approval for Tract Map No. 14484 be revised as appropriate to accommodate the two (2) development types and the proposed change.

As matter of information, it should be noted that the Fire District has indicated that any further development may trigger a secondary access in accordance with Condition No. 25. Public Works has also added Conditions of Approval No. 72 thru 74 requiring connection to the public sewer and that video inspections be done for each lateral prior to connection.

Attached are the original Conditions of Approval for TM No. 14484 as modified by the Planning Commission in June of 2017. Changes to the Conditions are noted by strikeout and underline.

### Recommended PUD Changes

Proposed amendment to Section 2.5 Commercial Recreation to read as follows:

#### **2.5 Commercial Recreation**

Phase “Y” (TM 14484), currently zoned Medium Density Residential, shall have placed upon it a Commercial Recreation overlay to allow for Lot Nos. 1 through ~~6878~~, 196 through 204 and 220 through 227 to be developed and used as RV lots in accordance with Section 3.4 Subsection D (Jess Ranch Lakes Recreational Vehicle Resort – Tract Map No. 14484).

Proposed amendment to Section 3.4 Medium Density Areas to amend the heading of Subsection D to read as follows:



- D. Jess Ranch Lakes Recreational Vehicle Resort – Tract Map No. 14484 (Lot Nos. 1 thru ~~68-78~~, 196 thru 204 and 220 thru 227)

### Environmental Assessment

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.

### Noticing

This item was advertised as a public hearing in the Apple Valley News newspaper on March 26, 2021 and notices were mailed to all property owners within 700 feet of the project site. At this time, staff has not received any comments on this request.

### Findings

Development Code Section 9.03.050 requires that the following Findings be made in order to approve a Specific Plan Amendment:

- A. The proposed Specific Plan meets all of the following content criteria:

1. Specifies through text and/or diagrams, the distribution, location and extent of the uses of land, including open space, within the area covered by the plan;

Comment: The Planned Unit Development already details land-use designations, permitted and conditionally permitted uses, and development standards to assure cohesive development within the Specific Plan area as approved in 1998 with Amendment No. 3 that placed a Commercial Recreation Overlay over TM No. 14484 to allow the subdivision to be developed as a RV resort for full-time RVers. The proposal will apply the Commercial Recreation Overlay to ten (10) lots that were previously subject to the removal of the Commercial Recreation Overlay under Specific Plan Amendment No. 2012-01, Amendment No. 1.

2. Specifies through text and/or diagrams, the proposed distribution, location and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid-waste disposal, energy and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan;

Comment: The approved Planned Unit Development already details distribution, location and extent and intensity of major

components of public and private transportation, sewage, water, drainage, solid-waste disposal, energy, and other essential facilities within the PUD area. The Amendment is considered minor and will be integrated into the document and will not affect its format.

3. Specifies through text and/or diagrams, the standards and criteria by which development will proceed, and standards for the conservation, development and utilization of natural resources, where applicable;

Comment: The development standards already included in the approved Planned Unit Development include text and graphic representations of the requirements for development. The amendment to Sections 2.5 and 3.4(D) will clarify the development standards for a recorded tract map within the Planned Unit Development between the existing RV and proposed single-family residential. The standards for the conservation, development and utilization of natural resources within the PUD will not change.

4. Specifies a program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to carry out Findings A.1, A.2 and A.3 above;

Comment: The proposed Amendment does not affect existing or projected build-out.

5. Include a statement of the relationship of the Specific Plan to the General Plan, Development Code and other applicable plans or ordinances;

Comment: The proposed Amendment does not affect the PUD's consistency with the General Plan because the underlying Medium Density Residential land use designation does not change. The Commercial Recreation designation is just an overlay over a portion of the lots.

6. Address any other subjects that are necessary for implementation of the General Plan;

Comment: The proposed Amendment does not affect the PUD's consistency with the General Plan because the underlying Medium Density Residential land use designation does not change. The Commercial Recreation designation is just an overlay over a portion of the lots consistent with an existing overlay within the same tract.

7. The location and design of the proposed development will be consistent with the goals and policies of the General Plan and with any other applicable plan or policies adopted by the Town and with any other applicable provisions of the Development Code.

Comment: The proposed Amendment does not affect the PUD's consistency with the General Plan because the underlying Medium Density Residential land use designation does not change. The Commercial Recreation designation is just an overlay over a portion of the lots consistent with an existing overlay within the same tract.

8. The proposed location will allow the development to be well integrated with, or adequately buffered from, its surroundings, as appropriate.

Comment: The proposed Amendment is a change in text only and will not alter any existing or future development within the Jess Ranch PUD because when Tract Map No. 14484 was approved in 1991 and phases recorded in 1993 and 1994, it was in conformance with the Medium Density Residential standards as a single-family residential development. The proposal will apply the Commercial Recreation Overlay to ten (10) lots that were previously subject to the removal of the Commercial Recreation Overlay under Specific Plan Amendment No. 2012-01, Amendment No. 1.

9. All vehicular traffic generated by the development, either in phased increments or at build-out, will be accommodated safely and without causing significantly increased congestion upon adjoining streets.

Comment: The proposed Amendment is consistent with the adopted PUD and does not constitute a change in build out potential because when Tract Map No. 14484 was approved in 1991 and phases recorded in 1993 and 1994, it was in conformance with the Medium Density Residential standards as a single-family residential development. The proposal will apply the Commercial Recreation Overlay to ten (10) lots that were previously subject to the removal of the Commercial Recreation Overlay under Specific Plan Amendment No. 2012-01, Amendment No. 1. Therefore, no traffic impact analysis was prepared since the Amendment will not alter levels of service throughout the project's development and at build out.

10. The final Specific Plan will identify a methodology to allow land uses to be adequately serviced by existing or proposed public facilities and services.

In appropriate circumstances, and as provided elsewhere by this Development Code, the Town may require that suitable areas be reserved for uses such as schools, parks and pedestrian ways; public open spaces may be dedicated or reserved by private covenant for the common use of residents, establishments or operations in the development.

Comment: The proposed Amendment does not affect public services because when Tract Map No. 14484 recorded in 1993 and 1994, in conformance with the Medium Density Residential standards as a single-family residential development. This proposal is not increasing the density that would impact the schools or require additional open space.

11. In accordance with the requirements of the California Environmental Quality Act (CEQA), environmental impacts have been reduced to a level of insignificance, or in the case where such impacts remain; a statement of overriding considerations must be adopted to justify the merits of project implementation after certification of the Environmental Impact Report.

Comment: It has been 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.

12. The proposed Specific Plan should contribute to a balance of land uses so local residents may work and shop in the community in which they live.

Comment: The purpose of the PUD is, in part, to provide housing opportunities and the Amendment does not lessen these opportunities.

13. The proposed Specific Plan will not be detrimental to the public health, safety or welfare of the Town.

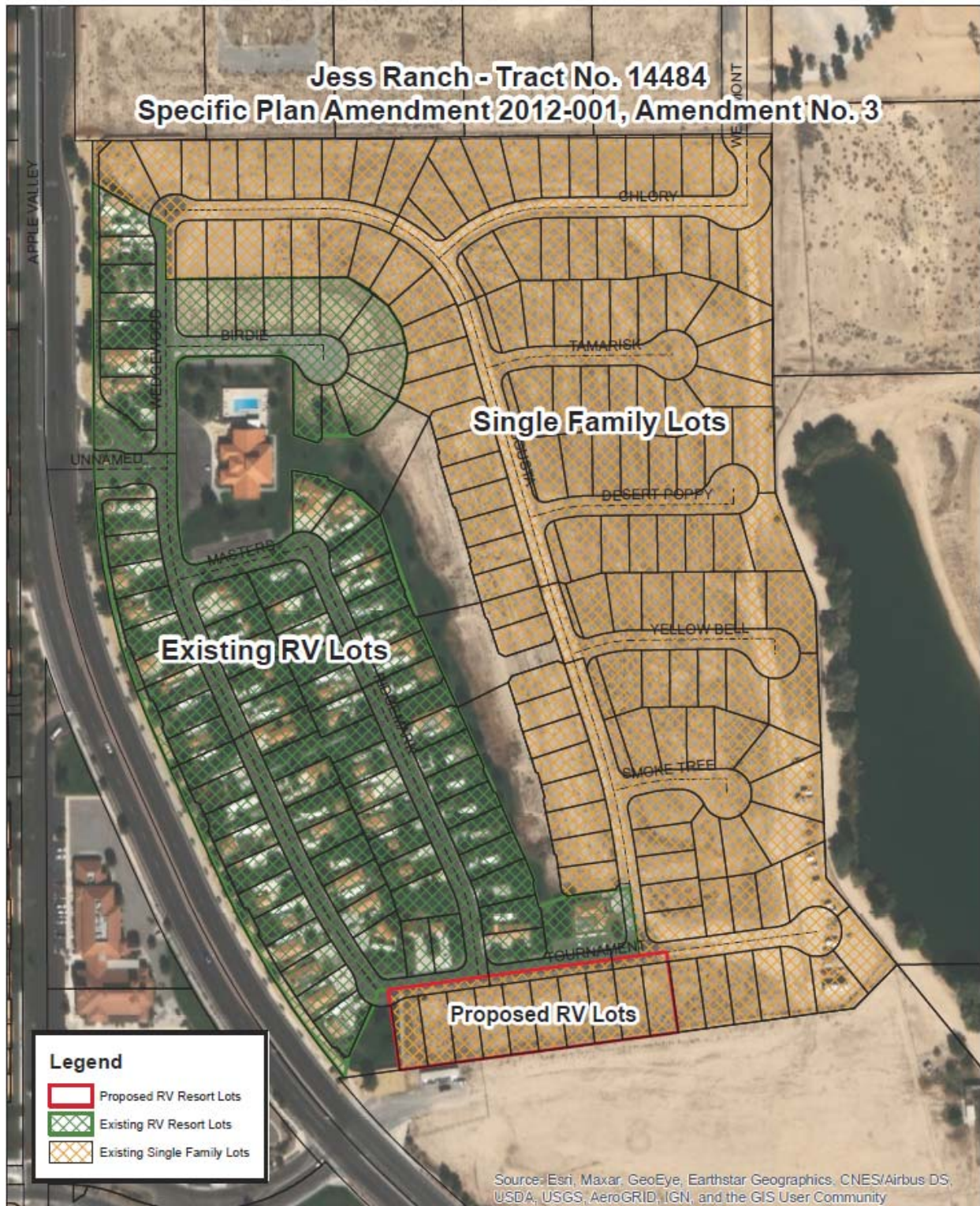
Comment: The Amendment is designed to assure that development within the Jess Ranch Lakes RV Resort and the single-family residential is of high-quality and does not impact public health, safety or welfare.

## RECOMMENDATION

Based upon the information contained within this report, and any input received from the public at the hearing, it is recommended that the Planning Commission move to approve Planning Commission Resolution No. 2021-003, forwarding a recommendation that the Town Council amend the Jess Ranch Planned Unit Development Sections 2.5 and 3.4.

## ATTACHMENTS:

1. Map Exhibit
2. Planning Commission Resolution No. 2021-003
3. Conditions of Approval TM No. 14484.



**PLANNING COMMISSION RESOLUTION NO. 2021-003**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT SPECIFIC PLAN NO. 2012-01, AMENDMENT NO. 3 (TM No. 14484) BY AMENDING SECTIONS 2.5 and 3.4(D) OF THE JESS RANCH PLANNED UNIT DEVELOPMENT.**

**WHEREAS**, the Jess Ranch Planned Unit Development was approved by the County of San Bernardino in 1981 with subsequent Amendments by the Town of Apple Valley in 1990 (Amendment No. 1), 1994 (Amendment No. 2), and 1998 (Amendment No. 3); and

**WHEREAS**, specific changes are proposed to the Jess Ranch Planned Unit Development by amending Sections 2.5 and 3.4(D) as it relates to the future development of Lots 69 thru 78 within recorded Tract Map No. 14484 from single-family residential development to recreation vehicle (RV) lot as permitted under the Commercial Recreation Overlay; and

**WHEREAS**, on March 26, 2021, Specific Plan 2012-01, Amendment No. 3 (TM No. 14484), was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, 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 PUD Amendment, will have a significant effect on the environment, the activity is not subject to CEQA, and

**WHEREAS**, on April 7, 2021, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Specific Plan No. 2012-01, Amendment No. 3 (TM No. 14484), receiving testimony from the public; and

**WHEREAS**, the proposed Amendment 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, finds and determines as follows and recommends that the Town Council make the following findings and take the following actions:

**Section 1.** In consideration of the evidence received at the public hearing, and for the reasons discussed by the Commissioners at said hearing, that the Planning Commission of the Town of Apple Valley, California, finds that the changes proposed under Specific Plan No. 2012-01, Amendment No. 3 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

**Section 2.** Based upon the facts presented within the staff analysis, public testimony and pursuant to Government Code Section 65863(b), the Planning Commission of the Town of Apple Valley, California, finds that the proposed Amendment to the Jess Ranch PUD is consistent with the General Plan goals for a broader economic base for the Town.

**Section 3.** The Amendment currently proposed is consistent with the adopted Planned Unit Development and does not constitute a change in build out potential. Further, 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.

**Section 4.** Amending Section 2.5 (Commercial Recreation) in its entirety to read as follows:

Phase "Y" (TM 14484), currently zoned Medium Density Residential, shall have placed upon it a Commercial Recreation overlay to allow for Lot Nos. 1 thru 78, 196 thru 204 and 220 thru 227 to be developed and used as RV lots in accordance with Section 3.4 Subsection D (Jess Ranch Lakes Recreational Vehicle Resort – Tract Map No. 14484).

**Section 5.** Amend Section 3.4.D (Medium Density Residential Areas) by amending the heading of Subsection "D" to read as follows:

D. Jess Ranch Lakes Recreational Vehicle Resort – Tract Map No. 14484 (Lot Nos. 1 thru 78, 196 thru 204 and 220 thru 227)

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 7th day of April 2021.

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Chairman Joel Harrison



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 April 2021 by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Maribel Hernandez, Planning Commission Secretary

## **TOWN OF APPLE VALLEY CONDITIONS OF APPROVAL**

### **Development Permit No. 209 (TM 14484)**

#### **Planning Department**

1. This tentative subdivision shall comply with the provisions of the State Subdivision Map Act and the Town Development Code and the requirements of the Jess Ranch PUD. This tentative approval shall expire three (3) years from the date of approval by the Planning Commission/Town Council and/or Planning Department. A Time Extension may be approved in accordance with the State Map Act and Town Ordinance, if an extension application is filed and the appropriate fees are paid at least 30 days prior to the expiration date.
2. Subdivision phasing, including proposed common open space phasing, shall be as shown on the approved Tentative Tract map.
3. Prior to the recordation of the Final Map/issuance of a building permit, the following agencies shall provide written verification to the Engineering Department/Building and Safety Department that all pertinent Conditions of Approval and applicable regulations have been met:
  - Planning Department
  - Apple Valley Unified School District
  - Fire District
  - Engineering Department
  - Apple Valley Water District
  - Park and Recreation District
4. A Homeowners Association shall be established for maintenance of Lots A-G, I, K-M and Q, Open space. The developer/applicant shall pay for all costs relating to establishment of the district. A maintenance district may be formed for publicly owned lots subject to the approval of the Town Engineer.
5. Sidewalks shall be provided along all secondary and major streets per Town standards or as necessary for safe and adequate pedestrian circulation.
6. A Homeowners Association shall be established for maintenance of Lots A-Q, Open Space/Common Area and all sidewalks and the developer/applicant shall pay for all costs relating to establishment of the Homeowners Association.
7. All slopes over three (3)-feet in height shall be landscaped and irrigated according to Town Interim Development Guidelines.
8. In compliance with Town Ordinance #2684, the applicant shall agree to defend at its sole expense (with Attorneys approved by the Town), and indemnify the Town against any action brought against the Town, its agents, officers or employees resulting from or relating to this approval. The applicant shall reimburse the Town, its agents, officers or employees for any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a

- result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of its obligations under this Condition.
9. Prior to recordation of the Final Map, the developer or his assignee, must conform to the park district Quimby Ordinance unless waived to time of issuance of a building permit. This Condition does not apply if the Covenants, Conditions and Restrictions (CC&Rs) limit this project to seniors, age 55 and over.
  10. Three (3) sets of detailed landscaping and irrigation plans, prepared by a qualified professional, shall be submitted to the Town Planner for review and approval prior to the issuance of building permits.
  11. All site amenities, including landscaping and irrigation, as shown on plans approved by the Town Planning Department, shall be installed prior to issuance of the Certificate of Occupancy. Landscaping shall utilize drought tolerant/desert-appropriate landscaping wherever feasible.
  12. Applicant shall submit the site plan, as approved by the Planning Department, to the Department of Building and Safety concurrent with application for building permits.
  13. In accordance with County Ordinance No. 1963, the applicant/developer shall submit a tree relocation plan to the Chief Building Official for review and approval.
  14. Signs shall be approved by separate permit.
  15. Reverse frontage wall and landscaping plans must be approved prior to issuance of building permits.
  16. All utility service boxes and connections shall be painted to match the building exterior on which they are located.
  17. All existing overhead utility services and wiring shall be relocated underground.
  18. No roof-mounted equipment shall be placed on any building unless screened as specifically approved by the Planning Department (except for solar collection panels).
  19. All utility systems including gas, electric, telephone, water, sewer and cable TV shall be provided for underground, with easements provided as required, and designed and constructed in accordance with Town Codes and the utility provided. Telephone, cable TV, shall be pre-wired in the residence.
  20. The CC&Rs shall be reviewed and approved by the Planning Department prior to final approval of the tract maps. The CC&Rs shall include liability insurance and methods of maintaining the open space, recreation areas, parking areas, private roads, and exterior of all buildings. Revised or new CC&R's shall be submitted for review and approval by the Planning Department specific to the single-family residential development.
  21. No lot or dwelling unit in the development shall be sold unless a corporation, association, property owner's group, or similar entity has been formed with the right to assess all properties individually owned or jointly owned which have any

- rights or interest in the use of the common areas and common facilities in the development, such assessment power to be sufficient to meet the expenses of such entity, and with authority to control, and the duty to maintain, all of said mutually available features of the development. Such entity shall operate under recorded CC&Rs which shall include compulsory membership of all owners of lots and/or dwelling units and flexibility of assessments to meet hanging cost of maintenance, repairs and services. Recorded CC&Rs shall permit enforcement by the Town of provisions required by the Town as Conditions of Approval. The developer shall submit evidence of compliance with this requirement to, and receive approval of, the Town prior to making any such sale. This Condition shall not apply to land dedicated to the Town for public purposes.
22. Every owner of a dwelling unit or lot shall own as an appurtenance to such dwelling unit or lot, either (1 an undivided interest in the common areas and facilities, or (2 as share in the corporation, or voting membership in an association, owning the common areas and facilities.
  23. Maintenance for all landscaped and open areas, including parkways, shall be provided in the CC&Rs.
  24. Prior to issuance of any grading or building permit, the applicant(s) shall sign and complete an "Acknowledgement of Conditions", and shall return the executed original to the Planning Department for inclusion in the case records.
  25. Each phase with a single access greater than 600-feet in length shall have a fully improved secondary access acceptable to the Town and the Fire District.
  26. A minimum ten (10)-foot greenbelt shall be provided with this tract along the north boundary (Section C of the Landscape plan shows a greenbelt by others).
  27. Provide a minimum twenty (20)-foot greenbelt along the southern boundary with this project (Section O of the Landscape Plan shows a sixteen (16)-foot parkway by others).
  28. Provide garage door openers on all units.
  29. Provide an accurate count of the number of residential units.
  30. The typical lot layout shall show a minimum front setback of ten (10) feet with a minimum difference in staggered setbacks of three (3) feet.
  31. Lot Nos. 79 thru 195 and 210 thru 219 within recorded Tract Map No. 14484 shall be developed as single-family residential in accordance with the medium density residential development standards of the Jess Ranch PUD. Lots Nos. 1 thru 78, 196 thru 209 and 220 thru 227 shall develop as RV lots within the Jess Ranch Lakes RV Resort in accordance with the RV lot standards for development.
  32. Prior to the issuance of a building permit an enhanced gated entryway shall be provided at the northeasterly access point (Westmond Drive). A plan shall be submitted to the Planning Division for review and approval.

33. Prior to the issuance of a building permit, a six (6)-foot high tract boundary wall shall be constructed.
34. Prior to a certificate of occupancy all single-family lots that back-up to Lot "C" shall be improved with a six (6)-foot high combination block wall and wrought iron fencing. Except within the front setback, a six (6)-foot high wall shall be installed along the westerly property line of Lot No. 219 and the southerly property line of Lot No. 104. Prior to the issuance of a permit for either development type, whichever occurs first, shall construct a six (6)-foot high block wall, outside of any front setback that separate the two development types. This would include the lot line along the rear property lines between those lots fronting Birdie Way and those fronting on Augusta Circle, and the lot line separating Lot 78 and Lot 79.

### **Apple Valley Ranchos Water Company Conditions of Approval**

35. Water mains must be extended to provide fire protection to this tract in accordance with Apple Valley Fire Protection District's conditions.
36. A water main extension contract will be required in compliance with Rule #15 of the California Public Utilities Commission.
37. Water mains and appurtenances are required to be looped and installed throughout the tract in accordance with AVRWC standards and specifications. The proposed water mains in Augusta Circle and Chlory Way need to be eight (8) inch in diameter. They are to join the existing twelve (12) inch water main in Wedgewood Drive and the existing six (6) inch main in Tournament Lane. In addition to the closing water main loop in Augusta Circle, an eight (8) inch water line needs to be extended in Chlory Way to Westmont Drive and then north on Westmont Drive to the edge of the tract boundary.
38. Fire hydrants are required per AVRWC standards drawings and located in accordance with Apple Valley Fire Protection District's requirements.
39. Water facilities need to be installed in dedicated public Rights-of-Ways or easements. These dedications and easements are needed to install, maintain, connect and operate (unobstructed vehicular access) the proposed water facilities.
40. Domestic service lines will need to be installed from the proposed water main to the street right-of-way for each residential lot.
41. A supply facility fee for water supply will not be collected because this area of Jess Ranch is exempt from the fee.
42. The project is exempt from the water acquisition fee since there is an agreement in place with Jess Ranch for water rights.

### **Engineering Department**

43. Prior to issuance of a grading permit, a final drainage plan with street layouts shall be submitted for review and approval by the Town Engineer showing provision for receiving and conducting off-site and on-site tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties. This plan shall consider retaining on-site drainage flows from a 100-year design storm.
44. Street improvement plans shall be submitted to the Town Engineer for review and approval.
45. All interior streets shall be improved to Town P.U.D. standards with curb, gutter and street pavement. Minimum residential width of streets shall be thirty-six (36) feet curb to curb.
46. All streets abutting the development shall be improved a minimum half-width of twenty-eight (28) feet with curb and gutter on the development side.
47. Apple Valley Road shall be improved to the Town's Full-Width Modified Major Divided Road standards, as approved by the Town Engineer.
48. An eighty-six (86) full-width road dedication along Apple Valley Road shall be granted to the Town of Apple Valley prior to Final Map Approval.
49. During the grading of the roads, soils testing of the road subgrades by a qualified soils engineering firm shall be performed to determine appropriate structural road section. Minimum asphalt concrete thickness for all streets shall be 0.25 feet.
50. All required improvements shall be bonded, in accordance with Town Development Code, unless constructed and approved prior to approval and recordation on the Final Map.
51. An encroachment permit shall be obtained from the Town prior to performing any work in a public rights-of-way.
52. Final improvement plans and profiles shall indicate the location of any existing utility which would affect construction and shall provide for its relocation at no cost to the Town.
53. A final grading plan shall be submitted to the Town Engineer prior to issuance of a grading permit for review and approval. A grading permit shall not be issued until street improvement plans have been submitted to the Town Engineer for review and substantial completion of the street plans has been attained as determined by the Town Engineer.
54. Street lights shall be required and shall conform to the Town's standards for such. The developer shall form or annex into an assessment district to provide for the ongoing maintenance of the street lights.
55. All road names shall be approved by the Town and such approval shall be coordinated through the Town Engineer.

56. Prior to Town acceptance of the Final Map, subdivider shall present evidence to the Town Engineer that it has made a reasonable effort to obtain a non-interference letter from any utility company that may have rights of easement within the property boundaries.
57. Utility lines shall be placed underground in accordance with the requirements of the Town.
58. The developer shall make a good faith effort to acquire any required off-site property interests, and if failing to do so, the developer shall, at least 120 days prior to submittal of the final map for approval, enter into an agreement to complete the improvements pursuant to Government Code Section 66462 at such time as the Town acquires the property interests required for the improvements. Such agreement shall provide for payment by the developer of all costs incurred by Town to acquire the off-site property interests required in connection with the subdivision. Security for a portion of these costs shall be in the form of a cash deposit in the amount given in an appraisal report, obtained by the Town prior to commencement of the appraisal, together with such additional security as may be required by the Town Engineer or Town Attorney.
59. Traffic impact fees, pursuant to Town Ordinance No. 42, shall be paid by the developer.
60. Any developer fees, such as drainage fees, shall be paid by the developer.
61. Any required street striping shall be thermoplastic as approved by the Town Engineer.
62. All interior streets shall remain private and shall not be entered into the Town's Maintained Street List.
63. A full width, approximately 120-foot wide, irrevocable offer of dedication along Apple Valley Road shall be granted to the Town of Apple Valley prior to final map approval as shown on the Apple Valley Road plans on file with the Town Engineer.
64. Replacement bonds based on an engineers estimate for the incomplete improvements and streets shall be provided prior to the issuance of a building permit.
65. Paved access shall be provided in accordance with Town standards to the nearest Town maintained road (Town Center Drive) from the northeasterly access point of the tract.

### **Building and Safety Department**

66. A preliminary soils report shall be filed, with and approved by the Building Official, prior to recordation of the final map.
67. Grading plans are to be submitted to, and approved by, the Department of Building and Safety.
68. Obtain a demolition permit for building(s) to be demolished. Underground structures must be broken in, back-filled and inspected before covering.

- 69. Submit plans and obtain building permits for required walls.
- 70. A pre-construction inspection and permit is required prior to any land disturbance activity to verify requirements for erosion and sediment control, flood hazard and native plant protection and management.
- 70a. A Notice of Intent (NOI) and Storm Water Prevention Plan (SWPP) must be submitted to and approved by the Engineering and Building Departments prior to issuance of a grading permit and or any land disturbance.
- 70b. All utilities shall be placed underground in compliance with Town Ordinance No. 89.
- 70c. Comply with the State of California Disability Access requirements.
- 70d. A dust palliative or hydro seed will be required on those portions of the site graded but not constructed (phased construction)
- 70e. Construction must comply with current California Building Codes and green Building Code.
- 70d. Best Management Practices (BMP's) are required for the site during construction.
- 70e. Provide Water Quality Management Plan (WQMP) or Alternative Compliance Plan
- 71. Define and delineate the setback boundary from the Mojave Flood Plain on the Final Development Plan as necessary.

### **Public Works Department**

- 72. Sewage disposal shall be by connection to the Town of Apple Valley sewer system. Plans must be approved by the Town of Apple Valley Public Works Department.
- 73. Perform video inspection of each sewer lateral and clear dirt/debris. Please contact the Public Works Department at 760-240-7500 upon completion. The Town's Wastewater staff will clean the sewer main after the laterals have been video inspected/cleaned.
- 74. Sewer connection fees required.





## Planning Commission Agenda Report

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**DATE:** April 7, 2021 **Item No. 2**

**CASE NUMBER:** Tentative Tract Map No. 20409/Reversion to Acreage No. 2021-001

**APPLICANT:** Merrell-Johnson Engineering Inc., representing Justin Noss

**PROPOSAL:** A request to approve Tentative Tract Map No. 20409 being a reversion of acreage of Tract Map No. 17453 by combining eight (8) lots to one (1) original parcel.

**LOCATION:** On the north side of Geronimo Road, approximately 150 west of Highline Drive (APNs: 3087-191-60 through 69)

**ENVIRONMENTAL DETERMINATION:** Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15305(c) (Reversion to Acreage), the proposed request is Exempt from further environmental review.

**CASE PLANNER:** Daniel Alcayaga, AICP, Planning Manager

**RECOMMENDATION:** Approval

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### PROJECT SITE AND DESCRIPTION

- A. Project Size  
The approximately 4.72-acre project site encompasses eight (8) single-family residential lots as created under Tract Map No. 17453.
- B. General Plan Designations
- Project Site - Single Family Residential (R-SF)
  - North - Single Family Residential (R-SF)
  - South - Single Family Residential (R-SF)
  - East - Single Family Residential (R-SF)
  - West - Single Family Residential (R-SF)

C. Surrounding Zoning and Land Use

- North - Single Family Residential (R-SF), Single Family Residences
- South - Single Family Residential (R-SF), Vacant
- East - Single Family Residential (R-SF), Single Family Residences
- West - Single Family Residential (R-SF), Single Family Residences

D. Site Characteristics

The site is vacant with native desert vegetation. The project site is surrounded by single-family residential homes and vacant properties. The land use designation of the project site, and surrounding properties, is Single-Family Residential (R-SF). There is vacant land located to the south and existing single-family homes located to the north, east and west of the project site.

ANALYSIS

A. General

Tract Map No. 17453, which underlies the project site, was recorded in February 2006 and subdivided the 4.72-acre parcel into eight (8) lots. Tentative Tract Map No. 20409 proposes a reversion to acreage to revert the project site's eight (8) lots into one (1) parcel. A reversion to acreage is a means by which subdivided lands may be returned to a large block of non-divided land. A reversion to acreage merges any underlying lots and eliminates easements and offers of dedication within the property being reverted to acreage. A tentative map processed in accordance with the Subdivision Map Act and Development Code Section 9.71.090 is required to receive Planning Commission approval for a reversion to acreage with the recordation of a final map. The current owner of all the parcels is Justin Noss. No development of the property is proposed at this time.

B. Environmental Assessment

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15305(c), the proposed request is Exempt from further environmental review.

C. Noticing

The public hearing for proposed Tentative Tract Map was legally noticed on March 26, 2021.

D. Findings

In considering any reversion to acreage, the Commission is required by the Development Code to make specific Findings. The following are the Findings for reversion to acreage under Section 9.71.090 (D) of the Development Code and a comment to address each:

1. Dedications or offers of dedication to be vacated or abandoned by the reversion to acreage are unnecessary for present or prospective public purposes.

Comment: No easements or dedications are necessary to remain after the processing of the map are shown on the Tract Map No. 20409.

2. All owners of an interest in the real property within the subdivision have consented to reversion.

Comment: Justin Noss is the single owner of all eight (8) lots, thus satisfying the requirement that all owners provide consent.

### RECOMMENDATION

Based upon the information contained within this report, and any input received from the public at the hearing, it is recommended that the Planning Commission move to:

1. Find that, pursuant to the California Environmental Quality Act (CEQA), Section No.15305(c), the proposed request is Exempt from further environmental review.
2. Find the Facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve Tentative Tract Map No. 20409, subject to the attached Conditions of Approval.
4. Direct Staff to file the Notice of Exemption.

### ATTACHMENTS:

1. Map Exhibit
2. Conditions of Approval TTM No. 20409.



## RECOMMENDED CONDITIONS OF APPROVAL

Case No. Tentative Tract Map No. 20409

**Please note:** *Many of the suggested Conditions of Approval presented herewith are provided for informational purposes and are otherwise required by the Municipal Code. Failure to provide a Condition of Approval herein that reflects a requirement of the Municipal Code does not relieve the applicant and/or property owner from full conformance and adherence to all requirements of the Municipal Code.*

### **Planning Division Conditions of Approval**

- P1. This tentative subdivision shall comply with the provisions of the State Subdivision Map Act and the Town Development Code. This tentative approval shall expire three (3) years from the date of approval by the Planning Commission/Town Council. A time extension may be approved in accordance with the State Map Act and Town Ordinance, if an extension application is filed and the appropriate fees are paid thirty (30) days prior to the expiration date. The Final Map becomes effective ten (10) days from the date of the decision unless an appeal is filed as stated in the Town's Development Code.
- P2. Prior to approval of the Final Map, the following agencies shall provide written verification to the Planning Division that all pertinent conditions of approval and applicable regulations have been met:
- Apple Valley Fire Protection District  
Apple Valley Ranchos Water Company  
Apple Valley Public Services Division  
Apple Valley Engineering Division  
Apple Valley Planning Division
- P3. The filing of a Notice of Exemption requires the County Clerk to collect a documentary handling fee of fifty dollars (\$50.00). The fee must be paid in a timely manner in accordance with Town procedures. All checks shall be made payable to the Clerk of the Board of Supervisors.
- P4. The applicant shall agree to defend at his sole expense (with attorneys approved by the Town), and indemnify the Town against any action brought against the Town, its agents, officers or employees resulting from or relating to this approval. The applicant shall reimburse the Town, its agents, officers or employees for any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of these obligations under this condition.
- P5. Tentative Tract Map TTM 20409 shall adhere to all requirements of the Development Code.
- P6. Approval of the Tentative Tract Map No. 20409 by the Planning Commission is understood as acknowledgement of Conditions of Approval by the applicant, unless an appeal is filed in accordance with Section 9.12.250, Appeals, of the Town of Apple Valley Development Code.

- P7. Prior to recordation the applicant shall provide the Planning Division with a copy of the subdivision in an electronic format compatible with the Town's current technology.
- P8. At the time of recordation adequate evidence of title to the real property within the subdivision and one or more of the following:
  - a. Evidence of the consent of all the owners of any interest in the property; or
  - b. Evidence that none of the improvements required to be made have been made within two (2) years from the date the Final Map was recorded, or within the time allowed by the Improvement Agreement, whichever is later; or
  - c. Evidence that no lots shown on the Final Map have been sold within five (5) years from the date the Final Map was recorded.
- P9. A Final Map shall be provided with the petition, prepared in accordance with Chapter 9.71 which delineates the dedications which are not proposed to be vacated, as well as any dedications which are required as a condition to the proposed reversion to acreage.



## Planning Commission Agenda Report

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<b>DATE:</b>	April 7, 2021	<b>Item No. 3</b>
<b>CASE NUMBER:</b>	Extension of time for Development Permit No. 2015-005, Special Use Permit No. 2015-015, Tentative Parcel Map No. 19575 and Variance No. 2016-001.	
<b>APPLICANT:</b>	Mr. Steven Farmer	
<b>PROPOSAL:</b>	This is a request for a one (1) year time extension of Tentative Parcel Map No. 19575 of a previously approved subdivision of eight (8) acres into eight (8) parcels; and a two (2) year time extension for Development Permit No. 2015-005, Special Use Permit No. 2015-015, Tentative Parcel Map No. 19575 and Variance No. 2016-001 (Apple Valley Gateway)	
<b>LOCATION:</b>	Located at the northeast corner of Interstate 15 and Dale Evans Parkway, north of Willow Springs Road; APNs: 0472-232-20 & 21.	
<b>ENVIRONMENTAL DETERMINATION:</b>	There is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for this project and adopted by the Planning Commission on April 6, 2016. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.	
<b>CASE PLANNER:</b>	Daniel Alcayaga, AICP, Planning Manager	
<b>RECOMMENDATION:</b>	Approval	

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### PROJECT SITE AND DESCRIPTION

- A. Project Size:  
The project will subdivide eight acres into eight (8) parcels.

**B. General Plan Designations:**

- Project Site - Regional Commercial (C-R)
- North - Resource Conservation (County)
- South - Regional Commercial (C-R)
- East - Regional Commercial (C-R)
- West - Resource Conservation (County)

**C. Surrounding Zoning and Land Use:**

- Project Site- Regional Commercial (C-R), vacant
- North - Resource Conservation (County), vacant
- South - Regional Commercial (C-R), vacant
- East - Regional Commercial (C-R), vacant
- West - Resource Conservation (County), I-15 and vacant

**ANALYSIS**

**A. Background**

On April 6, 2016, the Planning Commission reviewed and approved Tentative Parcel Map No. 19575 and associated land use permits with an expiration date of April 6, 2018. On March 21, 2018, the Commission approved an extension of time for three (3) additional years for TPM 19575. The associated land use permits were also administratively issued an extension of time for three (3) additional years. Table 1 shows the number of years that were originally issued for each land use permit, as well as the number of years that were extended by either the Planning Commission or administratively by the Director. The numbers in parentheses represent the number of years that the Development Code allows. The last column shows the remaining number of years that the land use permits can currently be extended. The length of time was previously adjusted by prior staff to ensure all the land use permits expire at the same time. It is important to note that the tentative parcel map can only receive a total of six (6) years, while the remaining land use permits can receive up to seven (7) years.

**Table 1 - Approvals/Extensions Issued & Remaining (No. of Years)**

<b>Land Use Permit</b>	<b>Originally Issued 4/6/16</b>	<b>First Extension Issued 3/21/18</b>	<b>Extensions Currently Remaining</b>
<b>TPM 19575</b>	2* (3)	3* (3)	1*
<b>DP 2015-005</b>	2 *(2)	3 (3)	2* (2)
<b>SUP 2015-015</b>	2* (3)	3 (2)	2* (2)
<b>VAR 2016-001</b>	2* (2)	3 (3)	2* (2)

Notes: (x) Approvals & extensions offered by the Development Code

\* Indicates the Planning Commission as the reviewing authority.



B. General

The Regional Commercial (C-R) zoning district is intended for the development of a full range of retail stores, offices and personal and business services on a scale to serve the needs of the Town and the surrounding region. This subdivision will facilitate the development of a commercial center.

The Planning Commission reviewed and approved Tentative Parcel Map No. 19575 together with Development Permit No. 2015-005, Special Use Permit No. 2015-015 and Variance No. 2016-001. The proposal includes a 43,000 square foot hotel, two (2) gas stations, a sit-down restaurant, three (3) drive-through restaurants and two (2) pads containing buildings with leased space not yet identified. The proposed map will create eight (8) commercial lots ranging from 0.6-acres to 2.6-acres. Each parcel is designed to accommodate the required amount of on-site parking for each identified use. As with the original project approval, the Conditions of Approval are based upon the entire development proposal.

There are very few modifications to the recommended Conditions of Approval. For the Commission's convenience, staff has included the original Conditions of Approval with recommended substantive modifications in ~~strikeout~~ (deletions) and underline (additions).

C. Environmental Assessment:

There is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for this project and adopted by the Planning Commission on April 6, 2016. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.

D. Noticing:

The Notice of Public Hearing for Extension of Time for Development Permit No. 2015-005, Special Use Permit No. 2015-015, Tentative Parcel Map No. 19575 and Variance No. 2016-001, was published in the Apple Valley News, with notices mailed to all property owners within a 700-foot radius, on March 26, 2021.

E. Findings:

a. Development Permit

As required under Section 9.17.080 of the Development Code, prior to approval of a Development Permit, the Planning Division, Director, Commission or Council when appropriate, shall find that the circumstances prescribed below apply:

1. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of this Code, the purpose of the

zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The proposed commercial retail center is located within the Regional Commercial (C-R) land use and zoning designation. The development is in compliance with the General Plan and Development Code, which permits the new construction of commercial structures, subject to the Planning Commission's review and approval of a Development Permit. The project complies with the General Plan policies and objectives and Town Council direction to facilitate development of retail shopping centers to meet the consumer needs of the community. The location, size and design of the proposed structures and improvements will be developed per the standards of the Development Code. Therefore, the project is consistent with the policies within the adopted General Plan relative to permitted uses within the Commercial zoning districts.

2. That the location, size and design of the proposed structures and improvements are compatible with the site's natural landforms, surrounding sites, structures and streetscapes;

Comment: Because the property is located mainly within an undeveloped area, it will set a commercial standard per the Development Code criteria for future regional commercial projects within this area of the Town.

3. That the proposed development produces compatible transitions in the scale, bulk, coverage, density and character of development between adjacent land uses;

Comment: The proposed center is located in an area that is undeveloped, and therefore, has no bulk, density, character issue with adjacent land uses. The design, materials and details of the proposed project will enhance and set a standard for future commercial projects designated for this vacant area of the Town. The project is and will be compatible because the project has been designed with large landscape buffers, and is designed and located so as to not impact future retail uses.

4. That the building, site and architectural design are accomplished in an energy efficient manner;

Comment: The proposed project will be constructed in accordance with the Uniform Building Code and Green Code, which conforms to the Town's Climate Action Plan.

5. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;

Comment: The design, materials and detail of the proposed center are within the Development Code standards and will utilize an architectural design consistent with the Development Code commercial design guidelines. Because the project is designed, scaled, and earth tone colors and materials have been intentionally designed to be compatible and reflect the hues of the surrounding desert setting, the project will set a quality standard for future commercial retail uses.

6. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

Comment: Because this is the first commercial development in the undeveloped area of the Town, it will not block public views and is a compatible use that is consistent in scale of required Development Code standards to commercial development.

7. That the amount, location, and design of open space and landscaping conforms to the requirements of this Code, enhances the visual appeal and are compatible with the design and function of the structure(s), site and surrounding area;

Comment: The proposed project exceeds the minimum Development Code standards for landscape coverage that serves to enhance the appearance of the site and the surrounding undeveloped area. The project landscaping will incorporate drought-tolerant plant material along the site frontages and within the property boundaries.

8. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures;

Comment: A variety of earth-tone colors that include shades of tan and brown will be compatible to Town's standards. Architectural accents, such as pre-cast concrete medallions, decorative tile and stone veneer provide Spanish details to all buildings. Because the buildings must adhere to the recommended Conditions of Approval, and Development Code standards, it will set a quality benchmark for quality architectural standards for future retail development in the area.

9. That excessive and unsightly grading of hillsides does not occur, and the character of natural landforms and existing vegetation are preserved where feasible and as required by this Code;

Comment: The project site is relatively flat with no significant slopes or landforms present, and therefore, will require minimal grading. There

are no existing Joshua Trees, no other vegetation of significance is present on the project site.

10. That historically significant structures and sites are protected as much as possible in a manner consistent with their historic values;

Comment: The site is vacant and there are no known historical structures on site.

11. That there are public facilities, services and utilities available at the appropriate levels, or that these shall be installed at the appropriate time, to serve the project as they are needed;

Comment: The project will require the extension of water and sewer facilities to the site. The project is also conditioned to provide street improvements. Because the proposal, will adhere to the recommended Conditions of Approval, and required improvements to the public right-of-ways, it will be compatible with Town Codes and directives.

12. That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists;

Comment: The proposed project has been designed with the appropriate setbacks and drive aisles to provide safe and convenient access for all forms of transportation.

13. That the proposed development's generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Comment: The proposed project is located at the northeast corner of Dale Evans Parkway and Willow Springs Road, and these streets will be improved to accommodate the commercial traffic. Because the proposed project is required street improvement, the proposal will not adversely impact the capacity and physical character of Dale Evans Parkway and Willow Springs Road, which bisects the project.

14. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain a Level of Service C or better on arterial roads and are consistent with the Circulation Element of the Town General Plan;

Comment: A traffic analysis was completed and includes mitigation measures. With the required improvements, the level of service will improve the Dale Evans Parkway and Willow Springs Road intersection as identified within the traffic analysis and will be in conformance with the goals and objectives of the General Plan.

15. That environmentally unique and fragile areas, such as the knolls, areas of dense Joshua trees, and the Mojave River area, shall remain adequately protected;

Comment: The project site is void of any significant vegetation and is outside of any environmentally unique or fragile areas.

16. That there will not be significant harmful effects upon environmental quality and natural resources;

Comment: Under the State guidelines to implement the California Environmental Quality Act (CEQA), an Initial Study has been prepared and, based upon the information provided, with implementation of proper mitigation measures as defined and required in the various Codes and standards applicable to all developments within the community, the proposed project will not produce adverse impacts on environmental quality and on natural resources.

17. That there are no other relevant negative impacts of the proposed use that cannot be mitigated;

Comment: Under the State guidelines to implement the California Environmental Quality Act (CEQA), an Initial Study has been prepared and, based upon the information provided, with implementation of proper mitigation measures as defined and required in the various Codes and standards applicable to every development within the community, the proposed project will not produce adverse impacts upon the sites nor the surrounding properties.

18. That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained, will not be detrimental to the public health, safety and welfare of the community or be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan; and

Comment: The proposed project by its design and operating characteristics, and with adherence to the conditions under which it will be operated and maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity.

19. That the proposed development will comply with each of the applicable provisions of this Code, and applicable Town policies, except approved variances.

Comment The proposed project can be built in conformance to the Development Code, subject to approval of a Development Permit and to the recommended Conditions of Approval.

b. Special Use Permit

As required under Section 9.16.090 of the Development Code, prior to approval of a Special Use Permit, the Planning Commission must make the following Findings:

1. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The five (5) drive-through uses, and two (2) gas stations, are in compliance with the General Plan Land Use and Zoning District that allows drive-through uses, subject to approval of a Special Use Permit. The drive-through lanes will be screened with a three (3)-foot high wall and landscaping to screen the drive-through lanes from public right-of-ways. Therefore, because of these improvements and because the project is consistent with the policy's goals and objectives of the adopted General Plan and Development Code relative to permitted uses within the General Commercial Land Use and zoning districts.

- 2 That the location, size, design and operating characteristics of the proposed use will be compatible with and will not adversely affect nor be materially detrimental to adjacent uses, residents, buildings, structures or natural resources;

Comment: The five (5) drive-through, and gas stations, will be developed in conformance with the Development Code. The design, materials and details of the proposed project will enhance and set a standard for future commercial projects designated for this area of the Town. Because the project has been designed with large landscape buffers, and placement of the menu boards shall be designed and located so as to not impact the other adjacent uses of the project.

3. That the proposed use is compatible in scale, bulk, lot coverage, density with adjacent uses;

Comment: The five (5) drive-through uses, and two (2) gas stations, are in compliance with the Development Code criteria in regard to scale, lot coverage, density and bulk. These proposed uses are adjacent to vacant parcels and with undeveloped area of the Town and County. Perimeter landscaping will add buffering to the site. The proposed project center is a planned project where the site has been designed with required parking, landscaping improvements and access

driveways and is not anticipated to generate excessive noise, vibration, or other disturbances. The architectural features of the future buildings are significantly under the permitted building height in the Regional Commercial designated property, and because the creative design, the buildings will set a benchmark for future commercial development in this vacant area of the Town.

4. That there are public facilities, services and utilities available at the appropriate levels, or that these shall be installed at the appropriate time, to serve the project as they are needed;

Comment: The project would require the extension of water and sewer facilities to the site. In addition, the proposal, with adherence to the recommended Conditions of Approval, will result in improvements to the public right-of-way that will be compatible to Town Municipal Code development criteria.

5. That there will not be a harmful effect upon desirable neighborhood characteristics;

Comment: Because the design, materials, construction improvements and details of the proposed drive-through restaurants and gas stations, will set a design precedent for future quality commercial development in this vacant area of the Town, there will be no harmful effects on the surrounding vacant parcels.

6. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Comment: The five (5) drive-through uses, and two (2) gas stations, are located at the southeast corner of Dale Evans Parkway and Willow Springs Road. Each drive-through building site has been designed with efficient queuing area in the drive-through lanes to accommodate the 120 feet of stacking as required by Code. A traffic analysis was completed, and the improvements to the abutting streets must comply with the required standard to maintain a level of service of "C" or better.

7. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain a Level of Service C, or better, on arterial road (Dale Evans Parkway) and are consistent with the Circulation Element of the Town General Plan;

Comment: The five (5) drive-through uses, and two (2) gas stations, will be designed to accommodate retail commercial traffic. Each drive-through site has been designed with the Code required 120 feet of stacking. A traffic analysis was completed, and the improvements to

the abutting streets must comply with the required improvements to maintain a level of service of “C” or better.

8. That there will not be significant harmful effects upon environmental quality and natural resources;

Comment: The Initial Study identified potential impacts to Biological Resources, Cultural Resources, Noise and Traffic. However, appropriate mitigation measure for those impacts, are required to reduce the impacts to less than significant.

9. That there are no other relevant negative impacts to the proposed use that cannot be mitigated;

Comment: The Initial Study identified potential impacts for Biological Resources, Cultural Resources, Noise and Traffic. However, appropriate mitigation measure for those impacts, are required to reduce the impacts to less than significant.

10. That the impacts as described in paragraphs 1 through 9 above, and the proposed location, size, design and operating characteristics of the proposed use, and the conditions under which it would be operated or maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan; and

Comment: The five (5) drive-through uses, and two (2) gas stations, by their design and operating characteristics, and with adherence to the conditions under which they will be operated and maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity.

11. That the proposed project will comply with all of the applicable provisions of this title and applicable Town policies.

Comment: The five (5) drive-through uses, and two (2) gas stations, will be built in conformance to the Development Code, subject to approval of a Special Use Permit and adherence to the recommended Conditions of Approval.

12. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;

Comment: There are no adjacent and neighboring structures within this vacant area of the Town. However, The five (5) drive-through uses, and two (2) gas stations, will be developed with various materials and details



that will set a quality baseline standard for future commercial retail centers planned for this area of the Town.

13. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

Comment: The proposed drive-through uses are in conformance with Code requirements and are designed with building heights that are significantly under height requirements. Each drive-through building site has been designed with 120 feet of vehicle stacking as required by Code. The five (5) drive-through uses, and two (2) gas stations, will be designed with adequate setbacks, parking and access points and landscape buffering (as specified in the Development Code).

14. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures.

Comment: The five (5) drive-through uses, and two (2) gas stations, will be designed with architectural elements that are uniform and complimentary throughout the entire retail center. All of the drive-through lanes will be screened with a three (3)-foot high decorative wall and landscaping. The project will set a designed quality for future commercial development anticipated for this area of the Town. Because of the aforementioned standards for the project, and with adherence to recommended Conditions of Approval, the project will set a precedent for creative design for future projects.

15. That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.

Comment: The five (5) drive-through uses, and two (2) gas stations, will be a part of a shopping center that includes a three (3)-story hotel and retail buildings and restaurant will be required to provide a reciprocal access, circulation and parking agreement for the entire project, allowing for better traffic flow for future development. Because of the numerous design measures and conditions of approval the circulation on and off, site will be safe and convenient for all users. The proposal will not adversely impact access, circulation and the physical character of surrounding streets.

c. Tentative Parcel Map

As required under Section 9.71.040 (A5) of the Development Code, prior to approval of a Tentative Parcel Map, the Planning Commission must make the following Findings:

1. The proposed Subdivision, together with the provisions for its design and improvement, is consistent with the General Plan and any applicable Specific Plan. The proposed subdivision or land use is compatible with the objectives, policies, general land uses and programs specified in the General Plan and any applicable Specific Plan (Subdivision Map Act 66473.5).

Comment: The project is a proposal to subdivide approximately 8.7- acres into eight (8) parcels that meet the Development Code Table 9.35.040-A criteria for minimum lot size, for lots within the Regional Commercial District that are part of an approved Development Permit. The property has a General Plan land use designation of Regional Commercial (C-R) and, by size, shape and configuration, has the ability to be developed in a manner consistent with the General Plan Land Use Element and zoning designations. The project is vacant, and the surrounding properties are vacant and the site and surrounding properties are designated Regional Commercial (C-R) designation in the town and Rural Commercial to the north in the County.

2. The Planning Commission has considered the effects of its action upon the housing needs of the region and has balanced these needs against the public service needs of its residents and available fiscal and environmental resources (Subdivision Map Act Section 66412.3).

Comment: The proposal consists of a land subdivision within the Regional Commercial (C-R) zoning designation. No houses are being removed, and housing needs will not be negatively impacted. The proposed subdivision will allow the property owner to develop the proposed center in a manner that is consistent with the Town's General Plan Goals and Objectives to promote commercial development.

3. The design of the subdivision provides, to the extent feasible, for the future passive or natural heating or cooling opportunities in the subdivision.

Comment: The commercial parcels created under this subdivision are appropriate in size to provide natural heating and cooling opportunities for development of the site. The subdivision proposal will facilitate the development of the center and will not conflict with the provisions of any adopted, applicable plan, policy or regulation. As development occurs, the individual lots are subject to the implementation of natural heating and cooling requirements pursuant to Title 24 energy requirements and the Town's Climate Action Plan.

4. The Planning Commission shall determine whether the discharge of waste from the proposed subdivision into the existing sewer system would result in a violation of the requirements as set forth in Section 13000 et seq., of the California Water

Code. If the Planning Commission finds that the proposed waste discharge would result in or add to a violation of said requirements; the Planning Commission may disapprove the subdivision (Subdivision Map Act Section 66474.6).

Comment: The project is a commercial land subdivision and is required to connect to the Town of Apple Valley's sewer system. The proposed development can be accommodated by the existing capacity of the sewer system. Applicable fees to connect to these existing infrastructure facilities is a required condition of approval. The requirement to hook up to existing sewer and wastewater lines will comply with California Water Code.

d. Variance Findings:

As required under Section 9.24.070 *Required Findings* of the Development Code, prior to approval of a Variance, the Planning Commission must make the following Findings:

1. That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this Code deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Comment: The existing 1.2-acre parcel is a legal nonconforming parcel; therefore, the strict application of the Regional Commercial standards would preclude the property owners from constructing the proposed use within the existing dimensions. The property which is designated as Regional Commercial (C-R) is an undersized lot with setbacks intended for a large regional shopping center.

2. That granting the Variance will be consistent with the general intent and purpose of the Development Code provisions for the district in which the property is located.

Comment: Staff finds that although existing 1.2-acre parcel proposal is inconsistent with the (C-R) rear yard setback standard, all other Development Code criteria for (C-R) standards are met. Additionally, the use is a permitted use in the (C-R) and is a part of a larger project which is compliant with (C-R) requirements. Therefore, granting the Variance will be consistent with the general intent and purpose of the Development Code provisions for the entire (C-R) project in which the property is a part of.

3. That granting the Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zoning district and denied to the property for which the Variance is sought.

Comment: The variance is needed to allow the fifteen (15)-foot encroachment. With the adherence to the (C-R) setback requirement for the parcel would preclude the applicant from constructing a viable site design to accommodate the proposed building. The granting of the variance will allow the applicant to construct a small drive-through which is a permitted use, and would be allowed to be a part of the proposed project.

4. That granting the Variance will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in such vicinity and land use district in which the property is located.

Comment: The granting the setback encroachment will not appear out of character or materially detrimental to the public health, safety or welfare, or injurious to the entire project and future (C-R) retail projects, because this is a unique situation and there are no other 1.2-acre nonconforming parcels in the area. Given the unique size and shape of the lot and the orientation of the drive-through restaurant on the lot, the fifteen (15)-foot encroachment will not be an adverse impact upon the character of future (C-R) development.

5. That granting the Variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and in the zoning district and the General Plan land use designation such property is located.

Comment: The granting of the variance would allow the property owner to construct a small development that meets all of the criteria for (C-R) development except for the setback encroachment. This encroachment will not constitute a special privilege because there are no other 1.2-acre parcels in the area that are non conforming to (C-R) standards.

6. That granting the Variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.

Comment: The proposed variance will not alter the allowable uses or permitted activity of the property.

## RECOMMENDATION

Based upon the information contained within this report, and any input received from the public at the hearing, it is recommended that the Planning Commission move to:

1. Find that there is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for this

- project and adopted by the Planning Commission on April 6, 2016. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.
2. Find the Facts presented in the staff report support the required Findings for approval and adopt the Findings.
  3. Approve a one (1)-year extension of time for Tentative Parcel Map No. 19575, and a two (2)-year extension of time for Development Permit No. 2015-005, Special Use Permit No. 2015-015, and Variance No. 2016-001 subject the attached Conditions of Approval.

**ATTACHMENTS:**

1. Conditions of Approval
2. Map Exhibit
3. Zone Map

**TOWN OF APPLE VALLEY**

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**RECOMMENDED CONDITIONS OF APPROVAL**

Development Permit No. 2014-05, SUP No. 2015-015, VAR No. 2016-01 and TPM No. 19575

*Please note: Many of the suggested Conditions of Approval presented herewith are provided for informational purposes and are otherwise required by the Municipal Code. Failure to provide a Condition of Approval herein that reflects a requirement of the Municipal Code does not relieve the applicant and/or property owner from full conformance and adherence to all requirements of the Municipal Code.*

**Planning Division Conditions of Approval**

- P1. This project shall comply with the provisions of State law and the Town of Apple Valley Development Code and the General Plan. This Tentative Parcel Map No. 19575 ~~and associated development permits~~, if not exercised in conformance to any conditions, shall become void April 6, 2022. DP No. 2014-05, SUP No. 2015-015 and VAR No. 2016-01 if not exercised in conformance to any conditions, shall become void April 6, 2023. ~~The Development Permit~~ This approval becomes effective ten (10) days from the date of the decision unless an appeal is filed as stated in the Town's Development Code, Section 9.03.0180.
- P2. The applicant shall defend, at its sole expense (with attorneys approved by the Town), hold harmless and indemnify the Town, its agents, officers and employees, against any action brought against the Town, its agents, officers or employees concerning the approval of this project or the implementation or performance thereof, and from any judgment, court

costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of this obligation under this condition.

- P3. ~~The filing of a Notice of Determination and mitigated Negative Declaration requires the County Clerk to collect a documentary handling fee of \$2,260.25 (including State Fish and Wildlife). All fees must be submitted prior to the issuance of any permits. The fee must be paid in a timely manner in accordance with Town's procedures. No permits may be issued until such a fee is paid. The development shall comply with the development standards adopted after the land use permits were originally approved, including but not limited to drive-thru, parking, and fuel stations regulations.~~
- P4. The approval of Development Permit No. 2015-005, SUP No 2015-015, TPM No. 19575, and Variance No. 2016-001 by the Planning Commission are recognized as acknowledgment of Conditions of Approval by the applicant, unless an appeal is filed in accordance with Section 9.12.250, Appeals, of the Town of Apple Valley Development Code.
- P5. It is the sole responsibility of the applicant on any Permit, or other appropriate discretionary review applications for any structure to submit plans, specifications and/or illustrations with the application that will fully and accurately represent and portray the structures, facilities and appurtenances, thereto, that are to be installed or erected if approved by the Commission. Any such plans, specifications and/or illustrations that are reviewed and approved by the Planning Commission at an advertised public hearing shall accurately reflect the structures, facilities and appurtenances expected and required to be installed at the approved location without substantive deviations, modifications, alterations, adjustments or revisions of any nature.
- P6. The rendering presented and approved by Planning Commission shall be anticipated and expected appearance. The Assistant Town Manager shall have the authority for minor architectural changes focusing around items such as window treatments, color combinations, and façade treatments if they are consistent with the overall appearance and intent of the center design as approved by the Planning Commission. Changes not clearly within the scope of this provision shall be submitted to the Planning Commission for consideration under a Revision to the Development Permit.
- P7. Any protected desert plants or discovered Joshua Tree pups impacted by development are subject to the regulations specified in Section 9.76.020 (Plant Protection and Management) of the Development Code.
- P8. Final landscape and irrigation plans shall be submitted and approved prior to building permit issuance and installed prior to issuance of occupancy permits, subject to approval by the Planning Division.
- P9. Landscaping shall be installed with appropriate combinations of drought-tolerant trees, shrubs, and ground cover, consistent with Chapter 9.75, Water Conservation Landscape Regulations, of this Code.

- P10. All front building setbacks and street right-of-way areas located between on-site improvements and the back of existing or future public sidewalks or street curbs, except needed access driveways, shall be fully landscaped.
- P11. All required and installed landscaping shall incorporate and maintain a functioning irrigation system, and said landscaping shall be maintained in a neat, orderly, disease and weed-free manner at all times.
- P12. All on-site, circulation aisle ways, landscaping and amenity's improvements shall be constructed as part of the first phase and prior to recordation of the Final Map whichever comes first, and the undeveloped pad areas of the remaining phases shall be hydro seeded, or another form of permanent dust control treatment applied to pad areas.
- P13. All slopes over three (3) feet in height shall be landscaped and irrigated according to Town's standards.
- P14. Final landscape and irrigation plans shall be submitted and installed prior to issuance of occupancy permits, subject to approval by the Planning Division. A report from a licensed landscape architect shall be provided describing the types of trees proposed and their ability to sustain and grow within the high desert climate. In addition, this report shall provide a water budget that complies with the Town of Apple Valley Landscape Irrigation Ordinance and State of California's Water Efficiency Landscape Ordinance.
- P15. The minimum amount of trees within the center shall be at least twenty (20) percent of the required trees be twenty-four (24)-inch box size specimen. At least one-half of the accent trees located in the areas of the entrances to the site shall be a minimum of thirty-six (36)-inch box size specimen.
- P16. Required parking spaces shall be provided for the handicapped in accordance with Town's standards and in accordance with Title 24 of the California Administrative Code. The handicapped spaces shall be located as close as practical to the entrance of the center. Each space must be provided with access ramps and clearly marked in accordance with Title 24 of the California Administrative Code.
- P17. Parking requirements shall be met and be in compliance with Town's standards. All parking stalls shall be clearly striped and permanently maintained with double or hairpin lines.
- P18. Lighting fixtures throughout the site shall be of a type and be located in such a manner that no light or reflected glare is directed off-site and shall provide that no light is directed above a horizontal plane passing through the bottom of the fixture. All glare shall be directed to the site and away from adjacent properties.
- P19. Light standards shall blend architecturally with buildings, pedestrian areas and other hardscape elements.
- P20. Plans shall reflect the deletion of the cloth awnings, and replaced with either metal or wood trellis louver style awnings, all building, elevation and other corresponding and related plans shall reflect this condition at plan check.

- P21. Walls and fences shall comply with the height and setback requirements of the Development Code.
- P22. Any equipment, whether on the roof, side of the structure or ground, shall be screened from public view from adjacent property or from a public right-of-way. The method of screening shall be integrated into the architectural design of the building and/or landscaping.
- P23. Prior to the issuance of building permits, the applicant shall provide the Planning Division with a copy of the subdivision in an electronic format compatible with the Town's current technology.
- P24. Prior to final map or first building permit, a reciprocal vehicular and pedestrian ingress, egress, and parking easement shall be recorded. Proof of recordation shall be provided.
- P25. Bricks, pavers or decorative stamped concrete shall be used to accent and highlight street entries, main travel lanes and pedestrian walkways in parking areas or focal areas.
- P26. All front building setbacks and street right-of-way areas located between on-site improvements and the back of existing or future public sidewalks or street curbs, except needed access driveways, shall be fully landscaped.
- P27. The height of any architectural element/feature shall "not" exceed a height of forty-five (45) feet. All building, elevation and other corresponding and related plans shall reflect this condition at plan check and confirmed by staff on final field inspection.
- P28. All litter shall be removed from the exterior area around the premises including adjacent public sidewalk areas and parking areas no less frequently than once each day that the business is open.
- P29. The premises shall be maintained in a clean, weed-free and landscaping shall be maintained in a disease-free manner at all times.
- P30. The applicant will need to submit a Sign Program before any issuance of a sign permit.
- P31. A combination of a low decorative wall and/or landscape berm shall provide a buffer of the drive-through lanes and windows, outdoor pedestrian seating and plaza areas that are adjacent to public right-of-ways, drive aisles, and parking lot which front along Willow Springs Road. Such areas shall include a trellis feature or other cover structures over the drive-through lane, and pedestrian plaza areas that are adjacent to the building.
- P32. All shall be in compliance with the approved Sign Program (submitted at a future date) and shall have a separate permit and are subject to final approval by the Town Planning Division.
- P33. Variance No. 2016-001 allows a fifteen (15)-foot rear yard encroachment for the 1.2 acre parcel east of Willow Springs Road.
- P34. The approval of Special Use Permit No. 2015-015, authorize drive-through uses for Pad(s) B, C, D E, F and the parcel east of Willow Springs Road. Pads C, and D are approved for gas stations with convenience store.



- P35. Per Section 9.35.090 of the Development Code regarding trash enclosures, all standards and design criteria all trash enclosures shall be designed per the Town's regulations.
- P36. Biological Resources  
BIO-1 - If any sensitive species are observed on the property during future development activities, CDFW and USFWS (as applicable) shall be contacted to discuss specific mitigation measures which may be required for the individual species. CDFW and USFWS are the only agencies which can grant authorization for the "take" of any special status species.  
  
BIO-2 - A pre-construction survey shall be completed by a qualified biologist within 7 days of the initiation of any earth moving activity on the site. The pre-construction survey shall include an intensive site survey for desert tortoise, burrowing owl and migratory birds. Should any affected species be identified, the biologist shall include recommendations for avoidance in the report.
- P37. Cultural Resources  
CR-1 - If buried cultural materials are discovered during earth-moving operations associated with the project, all work in that area should be halted or diverted until a qualified archeologist can evaluate the nature and significance of the finds. In the event that earth moving activities uncover human remains, all earth moving shall stop. The contractor shall immediately notify the Town and the County Coroner. The Coroner shall determine whether the remains are prehistoric, historic or modern-day. Should the remains be prehistoric, the Coroner shall be required to make Tribal contact, and the disposition of the remains shall be undertaken consistent with PRC 5097.98. The Coroner shall be responsible for determining when earth moving activities can resume.
- P38. Noise  
N-1: - A noise study shall be prepared prior to the issuance of any building permit for the hotel to determine the appropriate sound attenuating measures necessary to ensure interior noise levels comply with the Development Code and General Plan Noise Element.

**Engineering Division Conditions of Approval**

- EC1. Prior to issuance of a grading permit, a final drainage plan with street layouts shall be submitted for review and approval by the Town Engineer showing provisions for receiving and conducting offsite and onsite tributary drainage flows around or through the site in a manner, which will not adversely affect adjacent or downstream properties. This plan shall consider retaining onsite drainage flows from a 100 year design storm.
- EC2. Street improvement plans shall be submitted to the Town Engineer for review and approval.
- EC3. All streets abutting the development shall be improved a minimum with curb and gutter and sidewalk on the development side.

- EC4. Willow Springs Road shall be improved to the Town's full-width Commercial Road standards with a Two-way left-turn lane and sidewalks as approved by the Town Engineer, from Dale Evans Parkway to the north boundary of the project.
- EC5. The west leg (eastbound) of Dale Evans Parkway at the intersection of Willow Springs Road shall be widened to accommodate a 100-ft left-turn lane. The east leg (westbound) of Dale Evans Parkway shall be widened to accommodate a 200-foot right turn lane. The north leg, Willow Springs Road, at Dale Evans Parkway (southbound) shall be widened to provide a 150-foot left-turn lane, a through lane and a 150-foot right turn lane.
- EC6. Prior to Final Map approval, a sixty-six 66-ft full-width road dedication along Willow Springs Road within the property shall be granted to the Town of Apple Valley. Willow Springs Road along the boundary of the project, a minimum half-width of forty-three (43) feet (thirty-three (33) feet half-width, plus ten (10) feet) road dedicated shall be granted to the Town of Apple Valley.
- EC7. During the grading of the roads, soil's testing of the road sub grades by a qualified soil's engineering firm shall be performed to determine appropriate structural road section. Minimum asphalt concrete thickness for all streets shall be 0.33 ft.
- EC8. All required improvements shall be bonded in accordance with Town Development Code unless constructed and approved prior to approval and recordation on the Final Map.
- EC9. An encroachment permit shall be obtained from the Town prior to performing any work in any public right of way.
- EC10. Final improvement plans and profiles shall indicate the location of any existing utility, which would affect construction and shall provide for its relocation at no cost to the Town.
- EC11. A final grading plan shall be submitted to the Town Engineer prior to issuance of a grading permit for review and approval. A grading permit shall not be issued until street improvement plans have been submitted to the Town Engineer for review and substantial completion of the street plans has been attained as determined by the Town Engineer.
- EC12. Prior to Town's acceptance of the Final Map, Subdivider shall present evidence to the Town Engineer whom he has made a reasonable effort to obtain a non-interference letter from any utility company that may have rights of easement within the property boundaries.
- EC13. Utility lines shall be placed underground in accordance with the requirements of the Town.
- EC14. The developer shall make a good-faith effort to acquire the required off-site property interests, and if he or she should fail to do so, the developer shall at least 120 days prior to submittal of the final map for approval, enter into an agreement to complete the improvements pursuant to Government Code Section 66462 at such time as the Town acquires the property interests required for the improvements. Such agreement shall provide for payment by the developer of all costs incurred by Town to acquire the off-site property interests required in connection with the subdivision. Security for a portion of these costs shall be in the form of a cash deposit in the amount given in an appraisal report obtained by the developer, at the developer's cost. The appraiser shall have been approved by the Town prior to commencement of the appraisal. Additional security may be required as recommended by the Town Engineer and Town Attorney.

- EC15. Traffic impact fees adopted by the Town shall be paid by the developer.
- EC16. Any developer fees, including but not limited to drainage fees shall be paid by the developer as per Town's enactment.
- EC17. Any required street striping shall be thermoplastic as approved by the Town Engineer.
- EC18. A fair share contribution for a future traffic signal at the intersection of Dale Evans Parkway and Willow Springs Road shall be paid prior to final occupancy.
- EC19. In the event that an applicant/developer chooses to seek Council approval of the Final Map prior to completion of the required improvements, an "Agreement for Construction of Improvements" shall be required. In accordance with the California Labor Code, any such Agreement will contain a statement advising the developer that certain types of improvements will constitute a public project as defined in California Labor Code, Sections 1720, and following, and shall be performed as a public work, including, without limitation, compliance with all prevailing wage requirements.

**Building and Safety Division Conditions of Approval**

- B1. An engineered grading report, including soil's report shall be submitted to and approved by the Building Official prior to recordation of the final map or issuance of permits for grading in excess of 1000 cubic yards.
- B2. Grading and drainage plans, including a soil's report must be submitted to and approved by the Building Department and Engineering Department prior to grading permit issuance.
- B3. Submit plans, engineering and obtain permits for all structures, retaining walls, and signs.
- B4. A pre-construction permit and inspection are required prior to any land disturbing activity to verify requirements for erosion control; flood hazards native plant protection and desert tortoise habitat.
- B5. A Notice of Intent (NOI) and a Storm Water Prevention Plan (SWPP) must be submitted to and approved by the Engineering and Building Departments prior to issuance of a grading permit and or any land disturbance.
- B6. All utilities shall be placed underground in compliance with Town Ordinance No. 89.
- B7. All cross-lot drainage requires easements and may require improvements at the time of development.
- B8. Comply with State of California Disability Access requirements.
- B9. A pre-grading meeting is required prior to beginning any land disturbance. This meeting will include the Building Inspector, General Contractor, Grading Contractor, soil's technician and any other parties required to be present during the grading process such as Biologist, Paleontologist.

- B10. A dust palliative or hydro seed will be required on those portions of the site graded but not constructed (phased construction).
- B11. Page two (2) of the submitted building plans will be the conditions of approval.
- B12. Construction must comply with ~~2016~~ 2019 California Building Codes.
- B13. Best Managements Practices (BMP's) are required for the site during construction.
- B14. Provide Water Quality Management Plan (WQMP) or Alternative Compliance Plan.

**Environmental & Transit Services Conditions of Approval**

- ET1. The project must provide adequate areas for collecting and loading recyclable materials in compliance with AB 341. The trash enclosure must comply with the newly adopted recycling standards.

**Public Resource Code Section 42910-42912**

- ET2. The developer shall complete and submit a Waste Management Plan (“WMP”), on a WMP form approved by the Town for this purpose as part of the application packet for the building or demolition permit. The completed WMP shall indicate all of the following:
  - (1) The estimated volume or weight of project C&D debris to be generated;
  - (2) The estimated volume or weight of such materials that can feasibly be diverted via reuse or recycling;
  - (3) The vendor or facility that the Developer proposes to use to collect or receive that material; and
  - (4) The estimated volume or weight of C&D materials that will be landfill.

Town of Apple Valley Municipal Code Section 8.19.020(a)

- ET3. Compliance with Condition of Approval No. ER2 shall be met by any of the following:
  - (1) Contract for hauling services with Town’s franchise hauler, with all Project debris delivered to San Bernardino County self-haul landfill diversion program, provided the diversion program is currently operating; and provide acceptable proof of recycling to the Town in the form of receipts and/or weigh tickets, in conformance with the WMP.
  - (2) Self-haul all Project debris to San Bernardino County self-haul landfill diversion program, provided the diversion program is currently operating; and provide acceptable proof of recycling to the Town in the form of receipts and/or weigh tickets, in conformance with the WMP.
  - (3) Self-haul all Project debris to a construction material recycling facility, and provide acceptable proof of recycling to the Town in the form of receipts and/or weigh tickets, in conformance with the WMP.
  - (4) Contract with a construction site cleanup company to recycle at least 50% of the Project construction debris, and provide acceptable proof of recycling to the Town in the form of receipts and/or weigh tickets, in conformance with the WMP.

Town of Apple Valley Municipal Code Section 8.19.030

- ET4. Prior to issuance of Certificate of Occupancy, the developer shall submit to the WMP Compliance Official documentation proving that it has met the Diversion Requirement for

the Project. The Diversion Requirement shall be that the developer has diverted at least fifty (50) percent of the total C&D debris generated by the Project via reuse or recycling. This documentation shall include all of the following:

- (1) Receipts from the vendor or facility that collected or received each material showing the actual weight or volume of that material;
- (2) A copy of the previously submitted WMP for the Project adding the actual volume or weight of each material diverted and landfill;
- (3) Any additional information the Developer believes is relevant to determining its efforts to comply in good faith with this Chapter 8.19.

Town of Apple Valley Municipal Code Section 8.19.050

The developer shall make reasonable efforts to ensure that all C&D debris diverted or landfilled are measured and recorded using the most accurate method of measurement available. To the extent practical, all C&D debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For C&D debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the developer shall use the Standardized Conversion Rates approved by the Town for this purpose.

#### **Public Work Division Condition of Approval**

- PW1. A sewer feasibility study is required to determine how public sewer collection can be provided by the Town of Apple Valley. Contact the Apple Valley Public Works Department (760-240-7000 ext. 7500) to determine procedure and costs associated with completing said study.
- PW2. Sewage disposal shall be by connection to the Town of Apple Valley sewer system. Financial arrangements, plans and improvement agreements must be approved by the Town of Apple Valley Public Works Department.
- PW3. Buy-in fees will be required prior to Building Permit / Recordation. Contact the Public Works Department for costs associated with said fees.
- PW4. Sewer connection fees required.
- PW5. Sewer development impact fees required.
- PW6. A grease interceptor with minimum capacity of 750 gallons shall be required for all floor drains and service sinks, and all other receptors of grease and oil-bearing wastes.
- PW7. Submit mylars along with three sets of approved plans upon completion of plan check. In addition, the plans must be provided in an electronic format of the Town's choosing. These requirements are the same for the approved plans and the As-Built plans.

#### **Apple Valley Fire Protection District Conditions of Approval**

- FD1. The above referenced project is protected by the Apple Valley Fire Protection District. Prior to construction occurring on any parcel, the owner shall contact the Fire District for verification of current fire protection development requirements.
- FD2. All new construction shall comply with applicable sections of the California Fire Code, California Building Code, and other statutes, ordinances, rules, and regulations regarding fires and fire prevention adopted by the State, County, or Apple Valley Fire Protection District.
- FD3. All combustible vegetation, such as dead shrubbery and dry grasses, shall be removed from each building site a minimum distance of thirty (30) feet from any combustible building material, including the finished structure. This does not apply to single specimens of trees, ornamental shrubbery, or similar plants, which are used as ground cover if they do not form a means of transmitting fire. California Public Resources Code, Sec. 4291
- FD4. Prior to combustible construction, the development and each phase thereof, shall have two (2) points of paved access for fire and other emergency equipment, and for routes of escape which will safely handle evacuations. Each of these points of access shall provide an independent route into the area in which the development is located.
- FD5. Fire lanes shall be provided with a minimum width of twenty-six (26) feet, maintained, and identified. Twenty-six (26) feet access will start at both points of ingress and continue through the site. Apple Valley Fire Protection District Ordinance 55
- FD6. A turnaround shall be required at the end of each roadway 150 feet or more in length and shall be approved by the Fire District. Cul-de-sac length shall not exceed 1,000 feet.
- Turning radius on all roads within the facility shall not be less than twenty-two (22) feet inside and minimum of forty (40) feet outside turning radius with no parking on street, or forty-seven (47) feet with parking. Road grades shall not exceed twelve percent (12) unless approved by the Chief. Apple Valley Fire Protection District Ordinance 55
- FD7. Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. The numbers shall contrast with their background. Commercial and industrial developments shall have street addresses and location approved by the Fire District. Where the building setback exceeds 200 feet from the roadway, additional non-illuminated contrasting eighteen (18) inch numbers shall be displayed at the property entrance. When these developments have rear doors of each unit, the unit number shall be a minimum of six (6) inches and shall contrast with their background.
- Apple Valley Fire Protection District, Ordinance 55
- FD8. All buildings to be fire sprinklered as well as alarmed with smoke detection throughout.
- FD9. Plans for fire protection systems designed to meet the fire flow requirements specified in the Conditions of Approval for this project shall be submitted to and approved by the Apple Valley Fire Protection District and water purveyor prior to the installation of said systems.
- A. Unless otherwise approved by the Fire Chief, on-site fire protection water systems shall be designed to be looped and fed from two (2) remote points.
- B. System Standards:

*Fire Flow	1,500-2,250	GPM @ 20 psi Residual Pressure
Duration	2	Hour(s)
Hydrant Spacing	330	Feet

Install per A.V.F.P.D. Standard Series #101

The system shall be supervised and connected to an approved alarm monitoring station and provide local alarm which will give an audible signal at a protected location. Supervision to be both water flow and tamper. Sprinkler work may not commence until approved plans and permits have been issued by the Fire District.

Apple Valley Fire Protection District, Ordinance 55

FD10. A letter shall be furnished to the Fire District from the water purveyor stating that the required fire flow for the project can be met prior to the Formal Development Review Committee meeting.

FD11. Prior to issuance of building permit, the developer shall pay all applicable fees as identified in the Apple Valley Fire Protection District Ordinance.

FD12. A Knox Box Rapid Entry System shall be required for this project.

Apple Valley Fire Protection District Ordinance 55

### **Liberty Utilities Conditions of Approval**

LU1. A water main must be extended to provide fire protection for this development in accordance with Apple Valley Fire Protection District's conditions and must comply with Rule #16 of the California Public Utilities Commission.

LU2. A water main extension contract with the developer and Liberty is required and must be in compliance with Rule #15 of the California Public Utilities Commission. A 16" diameter pipeline will need to be extended from the existing main approximately 4,000 feet away which is south of the High Desert Detention Center on Dale Evans Parkway.

LU3. The water mains and appurtenances are required to be installed in accordance with Liberty's standards and specifications.

LU4. Fire hydrants are required per Liberty standards drawings and located in accordance with Apple Valley Fire Protection District's requirements.

LU5. Water facilities need to be installed in dedicated public Rights-of-Ways and/or public utility easements and need to be identified and shown on water improvement plans. These dedications and/or easements are needed to install, maintain, repair, connect, operate and inspect the proposed water facilities with unobstructed vehicular access.

LU6. Domestic service lines will need to be installed from the proposed water main to the dedicated street right-of-way line for this development.

LU7. A Supply Facility Fee is required which will fund development of new wells. This fee will be collected per meter which is presently at a rate of \$1000 per 5/8" equivalent meter.

LU8. A Supplemental Water Acquisition Fee is also required in order for Liberty to have the water rights to provide water to this project. This is a onetime charge that is subject to

*Second Extension of Time (Apple Valley Gateway)  
April 7, 2021 Planning Commission Meeting*

change and is determined at the time of construction. Presently, this fee is \$5,500 per residential lot of equivalent average residential water use.

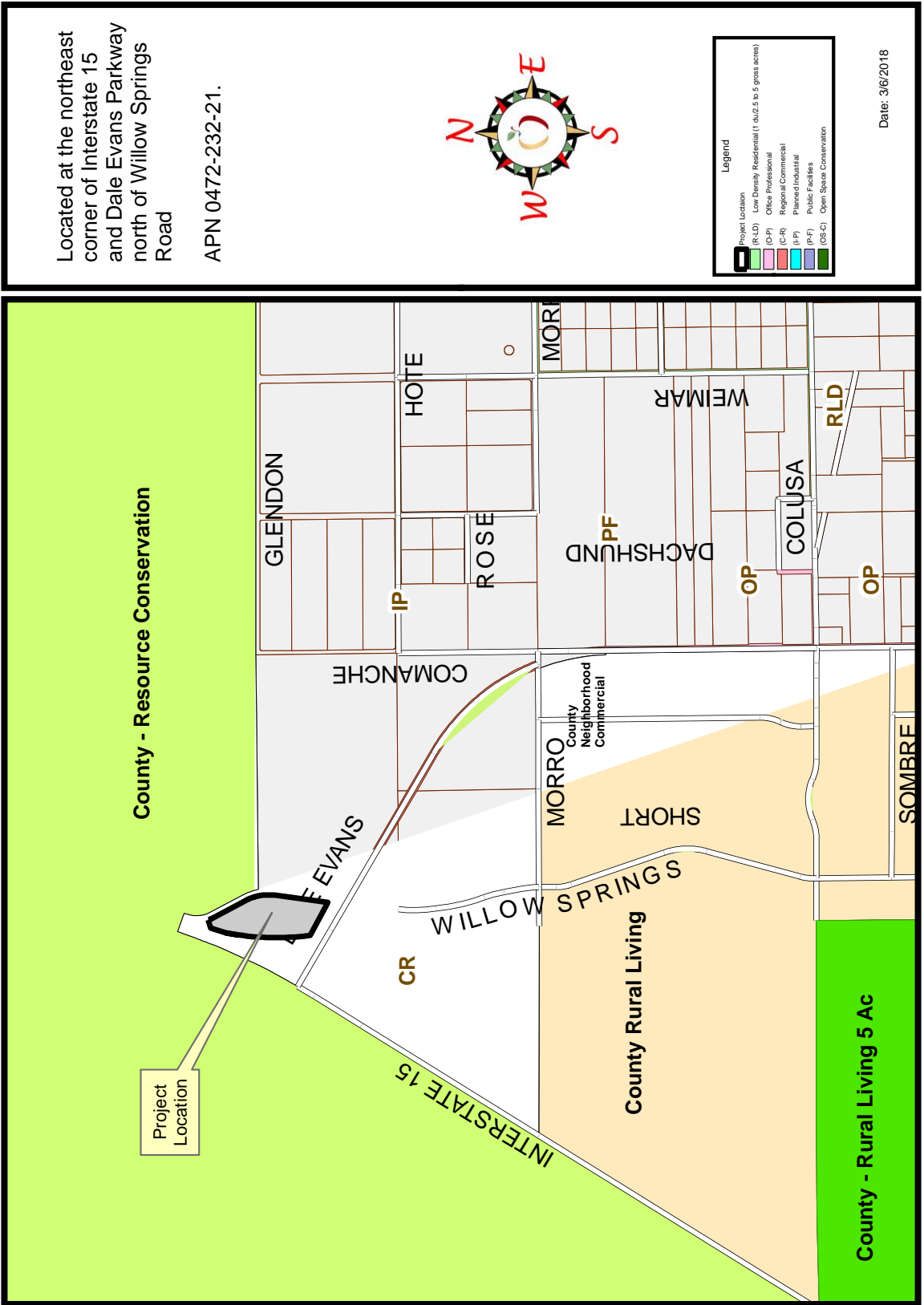
**End of Conditions**





**Tentative Parcel Map No. 19575  
 Extension of Time**

**ZONING/LOCATION MAP**





## Memorandum

**DATE:** April 7, 2021  
**TO:** Planning Commission  
**FROM:** Daniel Alcayaga, AICP, Planning Manager  
**RE:** Interpretation of Accessory Buildings and Structures in Residential Zones

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The Planning Commission is being requested to determine:

1. If fully enclosed non-habitable accessory structures (i.e. garages) over 120 square feet are subject to, or not subject to Section 9.29.022; and
  - a. If such non-habitable accessory structures that are subject to Section 9.29.022 must be open on at least one side.
2. Should clarifying language be implemented as an administrative interpretation or text amendment.

This memo outlines pertinent development code sections pertaining to non-habitable accessory structures and provides commentary within the proceeding box summarizing the regulations and the language needing clarification.

Staff would request clarification from the Planning Commission on Sections 9.29.020 and 9.29.022 as it pertains to non-habitable accessory structures in residential zones. Both Sections reference “accessory structures” and provide varying side and rear setbacks. Section 9.29.022 appears to have been crafted in 2006 to address an immediate code enforcement issue of semi-permanent carports popping up throughout the community. Staff is currently in the process of cleaning up language in the code and this may be an opportunity to clarify this Section to reflect the intended goal. Using Section 9.05.080(B), Clarification of Ambiguity, a consensus by the Commission can be used to support an administrative interpretation.

Historically, wood-frame, stucco garages or sheds have been interpreted as to not fall within Section 9.29.022 pertaining to “Semi-Permanent Carports and Accessory Structures or Shelters for the Storage of Cars, Boats, RVs, Trailers, Self-Propelled Equipment and Related

Bulk Items.” This interpretation does not appear to be codified anywhere. However, Section 9.29.022 makes reference to accessory structures which garages and sheds are considered accessory structures. In fact, the entire section applies to accessory structures for the storage of various types of vehicles and equipment, and standard garages meet all the criteria in the corresponding sub-Sections. Section 9.29.020 B(2), which is the section that has been interpreted as applying to garages and sheds also makes reference to accessory structures. Sheds and workshop rooms over 120 square feet in size are generally not intended for vehicles and vessels; therefore, do not qualify under Section 9.29.022, but the language could be clarified if the building is used for self-propelled equipment and related bulky items.

Staff believes these Sections should be clarified to clearly represent the desired outcome and to avoid confusion and provide clear guidance to residents and contractors. In addition, as currently interpreted, the regulations have the effect of encouraging metal RV carports over wood-frame, stucco garages. A property owner is allowed to build a metal RV carport five feet away from a side property line but could be required up to a 25-foot side setback for a wood-frame, RV stucco garage, even though the structures can be the same size and, visually, occupy the same space.

This discussion does not involve habitable accessory buildings or structures, such as guest quarters, accessory dwelling units (ADUs), and pool houses. Section 9.29.020 says accessory structures, attached or detached, used either wholly or in part for living purposes shall meet all of the requirements for location of the main structure..., unless otherwise provided in this Section and Section 9.28.040.

#### **Applicable General Regulations:**

**Definition of Accessory Building or Structure:** Pursuant to Chapter 9.08 of the Development Code, an “Accessory Building or Structure” is defined as a structure detached from a principal structure on the same lot and incidental to the principal building.”

An enclosed garage would fall under this definition of an accessory building and structure, as a garage is incidental to the principal building. The code does not define the difference between an accessory building and an accessory structure; therefore, can be referenced interchangeably. All the provisions herein only make reference to an accessory structure.
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#### **Chapter 9.28 - Residential Districts:**

- Under Section 9.28.030, Table 9.28.030(A) Permitted Uses, Subsection (G)(2) shows that “habitable/nonhabitable accessory structures” are permitted (P) in all residential zones.
- Under Section 9.28.040, Table 9.28.040-A, Site Development Standards, provides the required setbacks for minimum front, rear, side, and street side setbacks in all residential zones (**Attachment 1**).

Under Table 9.28.040-A, the side setback in residential zones range from 10 feet to 25 feet. Rear setbacks range from 25 feet to 40 feet. These setbacks apply to the primary building, as well as habitable accessory structures and some non-habitable accessory structures.

Table 9.28.040-A includes several footnotes, the majority of which are not relevant to this discussion of accessory buildings and structures. Those relevant to this discussion are included here, and the remaining footnotes can be found in Attachment 1:

### **Rancho Residential Overlay District:**

- Under Table 9.28.040-A, Subsection 10(a) Minimum side setback, Note 7 says “the Ranchos Residential Overlay District(s), Chapter 9.63 of this Code, may specify different side yard setbacks for interior lot lines.”
- Chapter 9.63 addresses setbacks within the Rancho Residential Overlay District. Section 9.63.020 of this Chapter states “The RRO District setbacks shall supersede the minimum setbacks specified in Section 9.28.040, Site Development Standards of this Code.”

In Table 9.63.020, which pertains to the Rancho Residential Overlay District, the side and rear setbacks in those residential tracts range from 5 feet to 15 feet. The RRO District setbacks supersede the setbacks in the corresponding zone. If a property is within the RRO District, then those setbacks apply to the primary building, as well as habitable accessory structures and non-habitable accessory structures.

### **Specific Regulations pertaining to Accessory Buildings and Structures:**

The following includes excerpts from Sections 9.29.020 and 9.29.022. Section 9.29.020 are general regulations, and address location, size, height, and architectural compatibility, that apply to all accessory structures (**Attachment 2**).

Sections 9.29.020(B) state:

1. Nonhabitable accessory structures not exceeding one hundred twenty (120) square feet and not taller than ten (10) feet may be located to within five (5) feet of a side or rear property line, provided that no part of the structure is located within the required front yard or street side yard building setback or within a required easement.
2. The minimum distance from an accessory structure larger than one hundred twenty (120) square feet or taller than ten (10) feet in height to a side property line shall be equal to the required setbacks in Table 9.28.040-A, of this Code, Site Development Standards, and Table 9.28.040-B, Site Development Standards for the Mountain Vista neighborhood, and a minimum of ten (10) feet from a rear property line.

Section 9.29.020(B)(2) requires non-habitable accessory structures to comply with the side setbacks from the Rancho Residential Overlay (RRO) District or the corresponding residential zone or the Mountain Vista neighborhood (**Attachment 2**). The code states that the RRO setbacks supersede the setbacks from the corresponding zone or the Mountain Vista neighborhood. If no RRO setbacks exist, then the setback from the corresponding residential zone or Mountain Vista neighborhood applies. The setbacks from the Mountain Vista neighborhood supersede the corresponding residential zone. This Section also allows all non-habitable accessory structures to have reduced rear setback of 10 feet.

Section 9.29.022 applies to carports and shelters, such as metal RV carports or enclosures (**Attachment 3**). Some of the provisions are include herein, and remaining provisions can be found in Attachment 3.

The Title of Section 9.29.022 reads: “Semi-Permanent Carports and Accessory Structures or Shelters for the Storage of Cars, Boats, Recreational Vehicles, Trailers, Self-Propelled Equipment and Related Bulk Items”

Regarding the Title of Section 9.29.022, the Code does not clearly define “semi-permanent carports” or “shelters”. Additionally, it is not clear if the title intends for this section to apply to semi-permanent accessory structures or if accessory structures can stand alone. At the beginning of the title, it includes the word “Semi-Permanent”, but then a subsection herein includes the word “permanent” when referencing shelters and enclosures.

Section 9.29.022(A) states:

Carports and accessory structures or shelters for the storage of cars, boats, recreational vehicles (RVs), trailers, self-propelled equipment and related bulk items constructed using a framework and roof of metal, wood or other rigid material allowed under the Uniform Building Code, not to include plastic or PVC material, may be located no closer than five (5) feet from either a side or rear property line, provided that no portion of said structure is located within a required front or street side yard building setback area or within or upon a recorded easement of any type.

Section 9.29.022(A) provides carports and accessory structures or shelters for the storage of above mentioned vehicles and items a five-foot side and rear setback. Among those mentioned as being able to locate within 5 feet from either a side or rear property line are “accessory structures”.

Sections 9.29.020 B(2) and Section 9.29.022(A), listed above, both reference “accessory structures” providing different side and rear setbacks. A garage, which is considered an accessory structure, would strictly fall under both of these sections. Depending on the size of garages, they can also accommodate the storage of cars, boats, recreational vehicles (RVs), trailers, self-propelled equipment and related bulk items.

Section 9.29.022(B) states:

“Permanent or semi-permanent recreational vehicle (RV) or other large vehicle enclosures or shelters may be located no closer than five (5) feet of a side or rear

property line, provided that no portion of said structure is located within any required front or street side yard setback area or within a recorded easement of any type.”

Subsection (B) references the word “permanent”. Even though the Title uses the word “semi-permanent”, this subsection applies to permanent structures. Under this Section garages can be interpreted as being permanent enclosures or shelters. Under this Section, these enclosures and structures would also qualify for a five-foot side and rear setback.

Staff is requesting clarification on Sections 9.29.020 and 9.29.022 pertaining to non-habitable accessory structures, as each Section makes reference to an accessory structure and provides varying side and rear setbacks. As written, it can be interpreted that a standard garage falls within Section 9.29.022 and qualify for a five-foot side and rear setback, as a garage is an accessory structure under the definition in the development code. Even though the title of Section 9.29.022 makes reference to semi-permanent structures, sub-section therein makes reference to permanent structures further supporting the interpretation that garages fall under that Section 9.29.022. A consensus by the Planning Commission on this issue will help determine if a code amendment is necessary to clarify the provisions, or if an administrative interpretation can be made.

**Attachments:**

1. Table 9.28.040(A) - Site Development Standards
2. Section 9.29.020 – Accessory Uses and Structures
3. Section 9.29.022 - Semi-Permanent Carports and Accessory Structures or Shelters for the Storage of Cars, Boats, Recreational Vehicles, Trailers, Self-Propelled Equipment and Related Bulk Items

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allowed up to thirty-five feet (35') in height anywhere upon a property, except within the required front-yard or street side-yard setback area. Said flag poles, when a flag is flown, may be illuminated provided any such lighting is shielded in a manner so that all glare shall be directed onto the site and away from adjacent properties and that such lighting standards shall blend architecturally with buildings, pedestrian areas, and other hardscape elements on the site. A maximum of three (3) flag poles shall be allowed per recorded lot.

- G. Guest Quarters are permitted and subject to the following:
1. May be attached to or detached from the main residential structure.
  2. The maximum floor area is 400 square feet.
  3. There shall be no kitchen or cooking facilities.
  4. Independent access to the guest quarters shall not be located on the same elevation as the access to the primary dwelling.
  5. Guest quarters are for the exclusive use of the residents of the primary dwelling unit and may not be rented or otherwise used as a dwelling unit.
- H. Detached habitable structures consisting of pool houses, art or music studios, or other structures intended for recreational purposes are permitted subject to the following:
1. Habitable accessory structures shall be architecturally compatible with the design of the main dwelling and shall incorporate the same architectural features, colors and materials of the primary unit.
  2. There shall be no indoor kitchen or bedrooms, except as identified within this section.
  3. One (1) detached habitable structure is permitted per lot.
  4. An accessory dwelling unit or guest quarters may occupy a portion of the habitable structure; however, access shall not be permitted from the interior.
  5. Unless permitted as an accessory dwelling unit, detached habitable structures shall not be rented or otherwise used as a dwelling unit.

( Ord. No. 502 , § 5, 5-8-2018; Ord. No. 504 , § 3, 3-6-2019; Ord. No. 523, §§ 8, 9, 1-14-2020 )



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## ATTACHMENT 3

### 9.29.022 Semi-Permanent Carports and Accessory Structures or Shelters for the Storage of Cars, Boats, Recreational Vehicles, Trailers, Self-Propelled Equipment and Related Bulk Items (*Amended Ord. 351, 368*)

- A. Carports and accessory structures or shelters for the storage of cars, boats, recreational vehicles (RVs), trailers, self-propelled equipment and related bulk items constructed using a framework and roof of metal, wood or other rigid material allowed under the Uniform Building Code, not to include plastic or PVC material, may be located no closer than five (5) feet from either a side or rear property line, provided that no portion of said structure is located within a required front or street side yard building setback area or within or upon a recorded easement of any type.
1. Any such semi-permanent carport or accessory structure or shelter must be permanently affixed to the ground with concrete footings or similar footings acceptable to the Town of Apple Valley Building Official.
  2. A building permit shall be obtained from the Town of Apple Valley Building Division for any such semi-permanent carport, accessory structure or shelter permitted by this Section.
  3. All semi-permanent carports or accessory structures or shelters permitted by this Section shall be constructed of new materials and shall be maintained, at all times, in good condition, not possessing worn, discolored or dilapidated materials or appearance.
  4. All semi-permanent carports or accessory structures or shelters permitted by this Section shall be finished with colors which are similar to the primary building on site.
  5. Any such semi-permanent carport or accessory structure or shelter built prior to July 26, 2006 and is constructed of metal, wood or other rigid material, not to include plastic or PVC material and is permanently affixed to the ground as described in paragraph No. 1 above, may encroach into the required side, rear and front setbacks and does not require a building permit. These structures do not have to be compatible with the finish colors and materials of the primary building.
- B. Permanent or semi-permanent recreational vehicle (RV) or other large vehicle enclosure or shelters may be located no closer than five (5) feet of a side or rear property line, provided that no portion of said structure is located within any required front or street side yard setback area or within a recorded easement of any type.
1. Said shelter structure(s) must be permanently affixed to the ground with concrete footings or similar footings acceptable to the Town of Apple Valley Building Official.
  2. A building permit shall be obtained from the Town of Apple Valley Building Division for any such permanent or semi-permanent carport, accessory structure or shelter permitted by this Section.
  3. Said shelter structure(s) must have solid and opaque siding materials over the supporting framework. This siding may extend to the ground and shall not include more than a four (4)-foot gap from the ground surface to the siding.
  4. Said shelter structure(s) may be constructed of any materials allowed by the Uniform Building Code, including a framework of metal and excluding plastic or PVC. Metal may be used as an exposed surface material.
  5. All semi-permanent carports or accessory structures or shelters permitted by this Section shall be finished with colors which are similar to the primary building on site.

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(Supp. No. 11, Update 6)

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6. Any such semi-permanent carport or accessory structure or shelter built prior to July 26, 2006 and is constructed of metal, wood or other rigid material, not to include plastic or PVC material and is permanently affixed to the ground as described in paragraph No. 1 above, may encroach into the required side, rear and front setbacks and does not require a building permit. Also, these structures do not have to have opaque siding that extends to at least four (4) feet above the ground surface as described in paragraph No. 3, above nor do they have to be compatible with the finish colors and materials of the primary building.

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**9.28.040 Site Development Standards (*Amended Ord. 314, 341, 354*)**

The Site Development Standards in Table 9.28.040-A are intended to provide standards for the development and use of land within the residential districts. These standards apply in conjunction with the applicable specific use regulations in Chapter 9.29, and the design standards in Chapter 9.31. All submissions to the Town of Apple Valley for a development or other permit, whether for Planning Commission, Town Council, or Plan Check and Building Permit review, may be required to provide public right-of-way or other appropriate dedication(s) and off-site and/or street and other related public improvement(s) consistent with the Circulation Element of the adopted General Plan and/or applicable standards established by the Town Engineer, as determined by the Town of Apple Valley Town Engineer, to mitigate and/or contribute toward mitigation of impacts, to promote the public health, safety and welfare, and as not otherwise restricted by law.

The setbacks specified in Table 9.28.040-A shall be the setback standards, except for the Mountain Vista neighborhood, as defined in this Chapter, and for which setbacks are specified in Table 9.28.040-C, or unless a different setback is indicated by a Ranchos Residential Overlay District as designated in Chapter 9.63 of this Code or is required as delineated on all Final Maps, Parcel Maps and Records of Survey Maps recorded in San Bernardino County between March 1, 1948, and January 1, 1987, or on Composite Development Plans on file in Town offices; then these setbacks shall be the street and yard setback distances required on the property within said Final Maps, Parcel Maps, Records of Survey or Composite Development Plan. Notwithstanding any other provision of this Code, any request to modify or deviate from a building setback line designated on a recorded map or final map shall be made in accordance with the provisions of Chapter 9.24 Variances or Chapter 9.25 Deviation Permits, of this Code.

Table 9.28.040-A Site Development Standards

STANDARDS	R-VLD	RA	R-LD	RE	RE-%	RE-Q	R-SF	R-M	MHP	M-U	PRD <sup>(1)</sup>
1. Minimum lot area <sup>(15, 17)</sup>	5 ac <sup>(2)</sup>	2.5 ac <sup>(2)</sup>	2.5 ac <sup>(2)</sup>	1 ac <sup>(2)</sup>	32,670 sf <sup>(3)</sup>	18,000 sf <sup>(3)</sup>	18,000 sf <sup>(3)</sup>	18,000 sf <sup>(3)</sup>	-	1 ac.	PRD <sup>(4)</sup>
2. Minimum corner lot area	5 ac <sup>(2)</sup>	2.5 ac <sup>(2)</sup>	2.5 ac <sup>(2)</sup>	1 ac <sup>(2)</sup>	32,670 sf	20,000 sf <sup>(3)</sup>	20,000 sf <sup>(3)</sup>	20,000 sf <sup>(3)</sup>	-	1 ac.	
3. Minimum lot width (ft)	200	150	150	125	125	100	100	100	-	100	PRD
4. Minimum corner lot width (ft)	200	150	150	125	100	115	115	115	-	115	PRD
5. Minimum lot depth (ft)	300	300	300	250	275	150	150	150	-	100	PRD
6. Minimum corner lot depth (ft)	300	300	300	250	275	150	150	150	-	150	PRD
7. Minimum site frontage (ft)	90	90	90	60	60	60	60	60	-	60	PRD
8. a. Minimum front setback (ft) <sup>(18)</sup>	50	50	50	45	30	30	30	40	15	35/10 <sup>(18)</sup>	10 <sup>(5)</sup>
b. Average front setback (ft)	N/A	N/A	N/A	50	35	35	35	45	15	N/A	PRD
9. Minimum rear setback <sup>(9)</sup> (ft) <sup>(18)</sup>	40	35	35	30	25	25	25	25 <sup>(19)</sup>	-	0	5
10. a. Minimum side setback (ft) <sup>(7)</sup> (ft) <sup>(18)</sup>	25	25	25	20	15/10 <sup>(9)</sup> (19)	15/10 <sup>(9)</sup> (19)	15/10 <sup>(9)</sup> (19)	10 <sup>(9)</sup> (19)	-	0	6
b. Minimum street side setback <sup>(9)</sup> (ft)	45	45	45	40	25	25	25	25	-	10	10
11. Animal keeping compatibility buffer <sup>(10)</sup> (ft)	25	25	25	25	25	25	N/A	N/A	N/A	N/A	PRD
12. Height limitations <sup>(11)</sup> (ft)	35	35	35	35	35	35	35	35 <sup>(13)</sup>	18 <sup>(13)</sup>	50	35
13. a. Maximum lot coverage	25%	25%	25%	25%	30%	30%	40%	60% <sup>(14)</sup>	-	50% <sup>(14)</sup>	50%
b. Minimum dwelling unit size (sq. ft.)	1,200	1,200	1,200	1,200	1,200	1,200	1,200	600 to 1,200 <sup>(12)</sup>	-	600 to 1,200 <sup>(12)</sup>	PRD
14. Minimum landscape area (ft)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	15%	-	10%	30%
15. Minimum distance between primary structure and detached accessory structure (ft)	6	6	6	6	6	6	6	10	-	0	6

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(Supp. No. 11, Update 6)

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- (1) Development standards shall comply with the minimums established in this Chapter, and in Section 9.29.080, Planned Residential Developments, of this Code, and shall be consistent with an approved Planned Development Permit. Development standards not addressed in an approved PRD shall be the same as those standards contained in this Code for the most similar use or situation.
  - (2) Lot area measured in gross acres.
  - (3) Lot area measured in net square feet.
  - (4) Density shall be consistent with the General Plan and applicable sections of the Development Code.
  - (5) A minimum driveway of twenty (20) feet is required for the entrance to a garage or carport unless an automatic garage door opener is provided or unless garage access is provided from an alley.
  - (6) Reduced rear setbacks are allowed for accessory structures pursuant to Section 9.29.030.B.
  - (7) The Ranchos Residential Overlay District(s), Chapter 9.63 of this Code, may specify different side yard setbacks for interior lot lines.
  - (8) Ten (10) feet is required on one side setback, fifteen (15) feet on the opposite side. See also Section 9.28.140, Solar Access, of this Code; subject to solar access requirements. A minimum fifteen (15) foot setback is required between residential districts and other districts.
  - (9) Solid fences in excess of four (4) feet in height are not allowed closer than twelve (12) feet to the right-of-way, pursuant to the provisions of Section 9.28.120 Fences, Walls and Hedges, of this Chapter.
  - (10) In addition, a sixty-five (65) foot setback from roofed animal enclosures to habitable structure setbacks on adjacent property is required by paragraph 9.29.030.C.2 of this Code.
  - (11) Certain mechanical and architectural features may exceed height limits by a maximum of fifteen (15) feet pursuant to subsection 9.28.040.E Projections above Height Limits, of this Chapter.
  - (12) See Subsection 9.29.070.B.5 Minimum Dwelling Unit Size, of this Code.
  - (13) See subsection 9.29.070.B.4 Height Limitations, of this Code. A maximum height of 50 feet is allowed with Planning Commission approval.
  - (14) See subsection 9.29.070.B.10 Lot Coverage, of this Code. A maximum of 70% is allowed with Planning Commission approval.
  - (15) For lands located outside the Town limits, the following minimum lot sizes shall apply (see Zoning Map).

R-VLD/10	10 acre minimum lot size
R-VLD/20	20 acre minimum lot size
R-VLD/40	40 acre minimum lot size
  - (16) From Major or Secondary/Local Streets

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(17) Projects proposed in the Deep Creek area shall be required to provide perimeter lots of the same size or larger than the adjacent land use designation, or lands across the abutting street. The Deep Creek area shall be defined as land south of Bear Valley Road, east of the Jess Ranch Specific Plan, north of Tussing Ranch Road, and west of Itoya Vista Road and Mockingbird Avenue.

(18) Handicapped access ramps are permitted in the front, side and rear yard setbacks.

(19) Non-habitable structures can encroach within the side and rear yard setbacks. See subsection 9.29.070.B.2 and 3.

**Table 9.28.040-B Summary of Site Development Standards for Residential Districts**

Table 9.28.040-B summarizes the minimum site development standards for residential districts

ZONING DISTRICT	A, A1 MINIMUM LOT WIDTH OR FRONTAGE	B MINIMUM LOT DEPTH	C MINIMUM/AVERAGE FRONT SETBACK <sup>(5)</sup>	D MINIMUM REAR SETBACK <sup>(5)</sup>	E MINIMUM STREET SIDE SETBACK <sup>(5)</sup>	F MINIMUM SIDE SETBACK <sup>(5)</sup>	G MAXIMUM HEIGHT
R-VLD <sup>(1)</sup>	200/90	300	50	40	45	25	35
R-A <sup>(1)</sup>	150/90	300	50	35	45	25	35
R-LD <sup>(1)</sup>	150/90	300	50	35	45	25	35
R-E	125/60	250	45/50	30	40	20	35
Corner Lot <sup>(1)</sup>		250					
R-E ½	100/60	275	30/35	25	25	15/10	35
Corner Lot <sup>(1)</sup>		275					
R-EQ	100/60	150	30/35	25	25	15/10	35
Corner Lot <sup>(1)</sup>		150					
R-SF	100/60	150	30/35	25	25	15/10	35
Corner Lot	115/60						
R-M	100/60	150	40/45	25 <sup>(2)</sup>	25 <sup>(2)</sup>	15/10 <sup>(2)</sup>	35 <sup>(3)</sup>
Corner Lot	115/60						
M-U	75/60	100	35/10 <sup>(4)</sup>	0	10	0	50
PRD	per PRD	per PRD	10	5	10	6	35

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- (1) See Footnote 17, Table 9.28.040-A regarding lots in Deep Creek area and definition of the Deep Creek area.
- (2) See subsection 9.29.070.B.2 and 3. Non-habitable structures can encroach within the side and rear yard setbacks.
- (3) See subsection 9.29.070.B.4 Height Limitations, of this Code. A maximum height of 50 feet is allowed with Planning Commission approval.
- (4) No average permitted. Distance shown is from Major or Secondary/Local Street.
- (5) Handicapped access ramps are permitted in the front, side and rear setbacks.

Consistent with the General Plan, the following site development standards are applied to the Mountain Vista neighborhood. The Mountain Vista neighborhood shall be defined as the Medium Density Residential lands located east of and adjacent to Rancherias Road, south of and fronting Otoe Road, north of and fronting Thunderbird Road, and west of and fronting Sago and Wanaque Roads. The following standards apply to lots created after the adoption of this Section (April 27, 2010). Existing lots as of the adoption of this Section shall comply with the standards of the R-M zone.

**Table 9.28.040-C Site Development Standards for the Mountain Vista Neighborhood<sup>(1)</sup>**

STANDARDS	R-SF	R-M
1. Minimum lot area	10,000 s <sup>f(2,3)</sup>	10,000 s <sup>f(2,3)</sup>
2. Minimum corner lot area	16,000 s <sup>f(2)</sup>	16,000 s <sup>f(2)</sup>
3. Minimum lot width (ft)	80	80
4. Minimum corner lot width (ft)	95	95
5. Minimum lot depth (ft)	125	125
6. Minimum corner lot depth (ft)	125	125
7. Minimum site frontage (ft)	40	40
8. a. Minimum front setback (ft) <sup>(11)</sup>	25	25
b. Average front setback (ft)	30	30
9. Minimum rear setback <sup>(4) (11)</sup>	20	20
10. a. Minimum side setback (ft) <sup>(5) (11)</sup>	15/10 <sup>(6)</sup>	5 <sup>(6)</sup>
b. Minimum street side setback <sup>(6) (ft)</sup> <sup>(11)</sup>	20	20
11. Height limitations <sup>(8)</sup> (ft)	35	35 <sup>(8)</sup>
12. a. Maximum lot coverage	40%	60% <sup>(9)</sup>
b. Minimum dwelling unit size (sq. ft.)	1,200	600 to 1,200 <sup>(10)</sup>
13. Minimum landscape area	N/A	10%
14. Minimum distance between primary structure and detached accessory structure (ft)	6	6

- (1) Development standards shall comply with the minimums established in this Chapter, and in Section 9.29.080, Planned Residential Developments, of this Code, and shall be consistent with an approved Planned Development Permit. Development standards not addressed in an approved PRD shall be the same as those standards contained in this Code for the most similar use or situation.
- (2) Lot area measured in net square feet.
- (3) Density shall be consistent with the General Plan and applicable sections of the Development Code.
- (4) Reduced rear setbacks are allowed for accessory structures pursuant to Section 9.29.030.B.
- (5) No portion of the building shall be less than ten (10) feet from the side lines of the lot. Ten (10) feet is required on one side setback, fifteen (15) feet on the opposite side. See also Section 9.28.140, Solar Access, of this

Code; subject to solar access requirements. A minimum fifteen (15) foot setback is required between residential districts and other districts. Non-habitable structures can encroach within the side and rear yard setbacks. See subsection 9.29.070.B.2 and 3.

- (6) Solid fences in excess of four (4) feet in height are not allowed closer than twelve (12) feet to the right-of-way, pursuant to the provisions of Section 9.28.120 Fences, Walls and Hedges, of this Chapter.
- (7) Certain mechanical and architectural features may exceed height limits by a maximum of fifteen (15) feet pursuant to subsection 9.28.040.E Projections above Height Limits, of this Chapter.
- (8) See subsection 9.29.070.B.4 Height Limitations, of this Code. A maximum height of 50 feet is allowed with Planning Commission approval.
- (9) See subsection 9.29.070.B.10 Lot Coverage, of this Code. A maximum of 70% is allowed with Planning Commission approval.
- (10) See Subsection 9.29.070.B.5 Minimum Dwelling Unit Size, of this Code.
- (11) Handicapped access ramps are permitted in the front, side and rear setbacks.

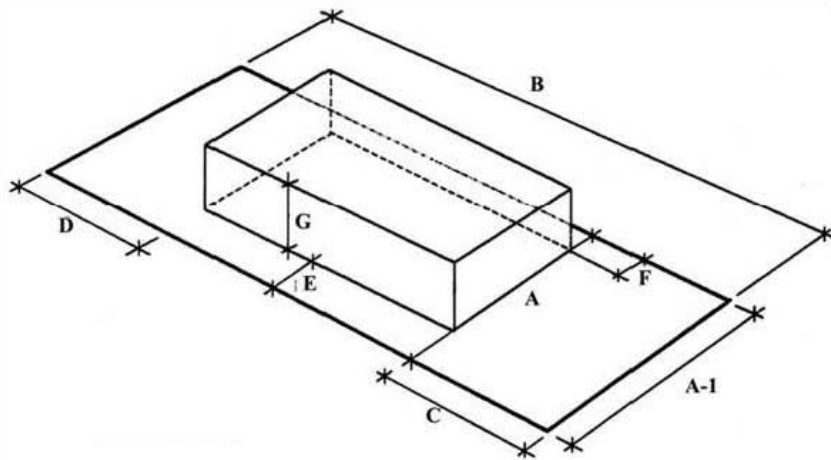
**Table 9.28.040-D Summary of Site Development Standards for Mountain Vista Neighborhood**

Table 9.28.040-D summarizes the minimum site development standards for residential districts

ZONING DISTRICT	A, A1	B	C	D	E	F	G
	MINIMUM LOT WIDTH OR FRONTAGE	MINIMUM LOT DEPTH	MINIMUM/AVERAGE FRONT SETBACK <sup>(3)</sup>	MINIMUM REAR SETBACK (3)	MINIMUM STREET SIDE SETBACK <sup>(3)</sup>	MINIMUM SIDE SETBACK <sup>(3)</sup>	MAXIMUM HEIGHT
<b>R-SF Corner Lot</b>	80/40 95/60	125	25/30	20	20	15/5	35
<b>R-M Corner Lot</b>	80/40 95/60	125	25/30	20 <sup>(1)</sup>	20 <sup>(1)</sup>	15/10 <sup>(1)</sup>	35 <sup>(2)</sup>

- (1) See subsection 9.29.070.B.2 and 3. Non-habitable structures can encroach within the side and rear yard setbacks.
- (2) See subsection 9.29.070.B.4 Height Limitations, of this Code. A maximum height of 50 feet is allowed with Planning Commission approval.
- (3) Handicapped access ramps are permitted in the front, side and rear setbacks.





**A. Projections into Yards.**

Table 9.28.040-C summarizes the various projections that are permitted into the required setbacks in the residential districts.

**Table 9.28.040-E Projections Into Yards**

PROJECTION	Permitted Projections into Setbacks			
	Front Setback	Street Side Setback	Interior Side Setback	Rear Setback
Architectural features such as eaves, cantilevered roofs, chimneys, bay windows, buttresses and wing walls	5ft	5ft	5ft	5ft
Cantilevered, unenclosed or uncovered balconies, porches, decks, stairways and landings	5ft	5ft	3ft	10ft
Awnings and canopies	3ft	3ft	3ft	3ft
Rain conductors, spouts, canals, utility service risers, shut-off valves and associated architectural accents	1ft	1ft	1ft	1ft
Handicapped access ramps	Unlimited	Unlimited	Unlimited	Unlimited

**B. Exceptions to Required Structure Setbacks**

**1. All Setbacks**

- a. **Dedications of right-of-way.** A variance to required setbacks shall not be required for a new single family dwelling on an existing lot of record which is reduced in size to less than the minimum site area required in the applicable zone district due to requirements for a public dedication of right-of-way. The required setback on those lots affected by the dedication may be reduced by the amount of dedication required, except that the front yard setback or the setback

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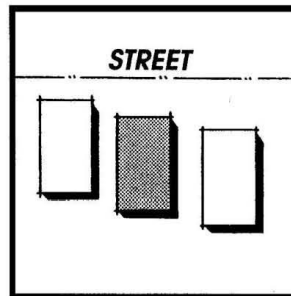
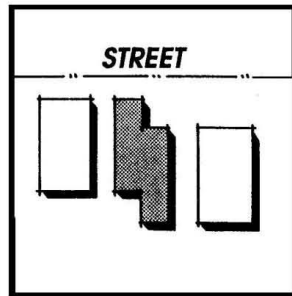
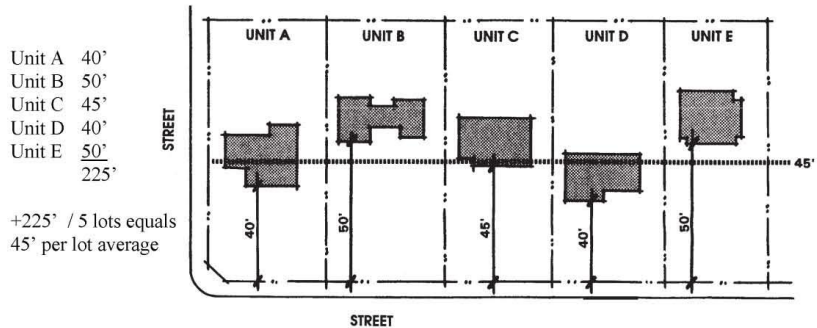
to a garage shall not be less than twenty (20) feet and the street side setback shall not be less than fifteen (15) feet unless a Variance is obtained.

2. **Reduction for Solar Access**

- a. **Side and rear setbacks.** In cases where it is not possible to orient a new single family dwelling southward within the applicable side setback requirements for the purpose of incorporating an active or passive solar energy system, a fifty (50) percent reduction in the side or rear setback requirements may be authorized through the Conditional Use Permit approval process, provided that:
- 1) The reduced setback will not restrict emergency access or present a fire hazard;
  - 2) The reduced setback will not be detrimental or injurious to property or improvements in the neighborhood, and will not limit solar energy access on neighboring property to a greater extent than if the building envelope complied with the required setbacks;
  - 3) The portion of the building or structural improvements proposed within the required setback is designed for the primary purpose of collecting solar energy;
  - 4) The solar equipment shall be no taller than eight (8) feet in height.

3. **Accessory Structures**

- a. Accessory structures no larger than one hundred twenty (120) square feet and not exceeding eight (8) feet in height may be located within five (5) feet of a side or rear property line provided no part of the accessory structure is located within the required front yard.
  - b. Swimming pools may be located no closer than five (5) feet to a side or rear property line.
  - c. Ground mounted air conditioners, swimming pool pumps, heaters, filters and fans may be located in a required side or rear yard provided that such structures or equipment are not closer than five (5) feet to any property line, and that such structures or equipment do not exceed a height of six (6) feet measured from the base of the unit. Such equipment shall be screened from adjacent property or street by a solid fence or wall.
4. A porte cochere may project into 50 (fifty) percent of the required front setback but not less than 25 (twenty-five) feet from the front property line.
5. Exceptions to required setbacks for the keeping of animals may be reviewed under Section 9.25, *Deviation Permit*, of this Code.
6. Handicapped access ramps are permitted in the front, side and rear setbacks.
- C. **Front Setback Averaging.** The front setbacks of dwellings along a block shall be averaged in order to break up a solid line of building facades down a street and create visual interest.
1. **New Subdivisions.** Adjacent homes shall have varied setbacks. The setback offset shall be a minimum of five (5) feet (Figure 9.28.040-B and C).



- D. **Street Side Setbacks.** Street setbacks shall be measured from the design right-of-way required by the Master Circulation Plan of the General Plan or; if the street is proposed to be private or is now a private street, the maximum required street width.
- E. **Projections Above Height Limits**
1. Flues, chimneys, elevators or other mechanical equipment, television antennas, similar utility or mechanical features, but not including flag poles, may exceed the height limits established in Table 9.28.040-A by a maximum of fifteen (15) feet. All roof mounted equipment shall be screened as required in Chapter 9.31, *Residential Design Standards*, of this Code.
  2. Architectural features such as cupolas, belltowers, and steeples may exceed the height limits by a maximum of fifteen (15) feet when approved by the Planning Commission. The Commission must find that any such projection which exceeds the height limits is an integral part of the building and will enhance the overall design of the building(s).
- F. **Sidewalk, Curb and Gutter**
1. Rolled curbs are permitted for new projects on local roads within the Residential Very Low Density (R-VLD), Residential Low Density (R-LD) Zoning Districts, Rolled curbs are permitted in Residential Estate (RE) and Residential Estate  $\frac{3}{4}$  (RE  $\frac{3}{4}$ ) Zoning Districts. Sidewalks are not required in these zoning districts.

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## ATTACHMENT 2

### 9.29.020 Accessory Uses and Structures (*Amended Ord. 239, 251, 269, 290, 313, 315,504* )

- A. **Purpose.** The purpose of this Section is to establish standards for accessory structures in residential districts which maintain the use of the single-family residence as the dominant use of the property. These standards are also intended to preserve the open desert character of the Town, especially in the more rural Estate Residential, Estate Residential 3/4, Equestrian Residential and Low Density Residential districts.
- B. **Location.** Accessory structures, attached or detached, used either wholly or in part for living purposes, shall meet all of the requirements for location of the main structure as required by the zoning district, except as otherwise provided in this Section and Section 9.28.040, *Site Development Standards*, of this Code. Handicapped access ramps are exempt from these provisions.
1. Nonhabitable accessory structures not exceeding one hundred twenty (120) square feet and not taller than ten (10) feet may be located to within five (5) feet of a side or rear property line, provided that no part of the structure is located within the required front yard or street side yard building setback or within a required easement.
  2. The minimum distance from an accessory structure larger than one hundred twenty (120) square feet or taller than ten (10) feet in height to a side property line shall be equal to the required setbacks in Table 9.28.040-A, of this Code, *Site Development Standards*, and Table 9.28.040-B, *Site Development Standards for the Mountain Vista neighborhood*, and a minimum of ten (10) feet from a rear property line.
  3. Roofed animal enclosures shall not be located within twenty-five (25) feet of any property line in accordance with subsection 9.29.030.F, *Setback Requirements*, of this Chapter. Horse corrals/shelters utilizing metal roofing or exteriors, where the collective roofed area of all corrals/shelter on a recorded lot is equal to or less than 300 square feet in size shall be allowed on any lot where horses are permitted. Horse corrals/shelters utilizing metal roofing or exteriors, where the collective roofed area of all corrals/shelter on a recorded lot exceeds 300 square feet in size, shall be allowed on any lot where horses are permitted subject to the provisions of subsection 9.29.020.E, *Architectural Compatibility*, of this Chapter.
  4. Open, unroofed animal enclosures may be located within five (5) feet of a side or rear property line or easement line (if any) provided a minimum distance of seventy (70) feet is provided between the enclosure and any existing off-site structure used for human habitation in accordance with subsection 9.29.030.F, *Setback Requirements*, of this Chapter.
- C. **Size.**
1. The cumulative total of square footage of accessory structures, combined with all other applicable structure footprints, shall not exceed the maximum lot coverage standard for the zoning district in which it is located.
  2. On residential lots less than two and one-half (2½) acres in size, any single accessory structure shall not exceed seventy-five (75) percent of the total area under roof of the primary structure. The total of all accessory structures on a site shall not exceed 100 percent of the total area under roof of the primary structure.
- D. **Height.** The maximum height of an accessory structure shall not exceed the maximum height for the zoning district in which it is located, except that the maximum total height of antennas and their support structures shall be as specified in Chapter 9.77, *Wireless Telecommunications Towers and Antennas*, of this Code. Accessory structures in the single family residential, equestrian residential, and multi-family residential

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districts shall not exceed one-hundred percent (100%) of the height of the main structure on site, or sixteen (16) feet, whichever is lesser, if a one story structure, nor seventy-five (75) percent of the height of the main structure, if that main structure is two or more stories in height. A greater height may be approved by the Planning Commission upon review and approval of a Development Permit as provided in Chapter 9.17 "Development Permits."

- E. **Architectural Compatibility.** Accessory structures larger than one hundred twenty (120) square feet in area or taller than eight (8) feet in height shall meet the architectural compatibility with primary structure requirements for residential districts found in Chapter 9.31, *Residential Design Standards* of this Code.
1. Accessory structures larger than one-hundred, twenty (120) square feet in area or taller than eight (8) feet in height and located in front of the back line of the house shall be constructed of materials and colors which are similar to the primary building on the site. Structures built on site, or structures assembled from modular or similar units on site, or structures assembled off site and moved on site as one unit may not use metal exteriors except as described below and as described in Section 9.29.022. Structures built, assembled or fabricated, off site having metal exteriors, such as metal containers, cargo containers, freight and similar containers, modified trailers, modified rail-road cars, butler buildings, and the like, are expressly prohibited, unless said container and roofline/structure is covered or skinned with siding materials (i.e. wood, stucco, or masonry) similar to the primary residence and the design is compatible with the primary residence. All applicable building permits for alteration of prefabricated structure shall be required.  
  
Structures built on site, or structures assembled from modular or similar units on site, or structures assembled off site and moved on site as one (1) unit, including metal sheds, may use metal exteriors when the Planning Commission determines that the proposed structure shall have an appearance emulating and simulating the color, texture and appearance of the main structure on site. Said metal exterior must provide the same texture depth and other physical characteristics as the exterior of the main structure on the property. Exceptions to Planning Commission review requirements are carports and accessory structures or shelters for the storage of cars, boats, recreational vehicles (RVs), trailers, self-propelled equipment and related bulky items as described in Section 9.29.022.
  2. Accessory structures built on site located to the rear of the back line of the house may be constructed of any material allowed by the Uniform Building Code and may utilize any desired architectural design except that metal may not be used on the exteriors of such structures unless reviewed and approved by the Planning Commission as described below or as allowed under Section 9.29.022. Metal, freight, cargo or similar containers are not allowed within any residential district, except the Residential-Agriculture, R-A, District when placed in a manner where such containers are not visible from the public right-of-way.
  3. Patios, gazebos, patio enclosures, solariums, sunrooms and horticultural structures may be constructed of any material allowed by the Uniform Building Code and may utilize any desired architectural design.
  4. Within the R-VLD, Very Low Density R-A, Residential, Residential-Agriculture, R-LD, Low Density Residential, R-E, and R-E ¾, Estate Residential zoning districts accessory structures built or assembled on site, or assembled off site and moved on site, shall be located to the rear of the back line of the house, may be constructed of any material allowed by the Uniform Building Code and may utilize any desired architectural design, provided, however, that structures using metal exteriors shall be approved under a Development Permit prior to issuance of a Building Permit and shall be located upon a property of at least five (5) acres in size, placed so that no portion of the structure is *located closer than fifty (50) feet from any property line and such structure is screened* from view of any public right-of-way by suitable landscaping or other structures on site.
- F. **Flags.** Flag poles displaying official flags of the United States, the State of California, and other states of the nation, counties, municipalities, and official flags of foreign nations are accessory structures that may be

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