



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 03/17/2020

ITEM NO: 8

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DATE: March 11, 2020  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Introduce an Ordinance, by Title only, Effecting Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Accessory Dwelling Units, Town Wide. Town Code Amendment Application A-20-001. Applicant: Town of Los Gatos

**RECOMMENDATION:**

Introduce an Ordinance, by title only, effecting amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding accessory dwelling units.

**BACKGROUND:**

In October of 2019, Governor Newsom signed new State law, including Senate Bill 13, Assembly Bill 68, and Assembly Bill 881, further amending land use regulations regarding accessory dwelling units. Changes to California Government Code Section 65852 expanded the ability of California homeowners to construct accessory dwelling units and junior accessory dwelling units on their properties.

The new State law includes substantive changes related to the minimum number, size, and location of accessory dwelling units required to be allowed on a lot. A local ordinance that does not wholly conform to the minimum requirements of the new State law for the creation of accessory dwelling units is superseded until amendments to the local ordinance are adopted; however, the new State law does not limit the authority of jurisdictions to adopt less restrictive regulations for the creation of accessory dwelling units.

**PREPARED BY:** Sally Zarnowitz, AIA, LEED AP  
Planning Manager

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Community Development Director, and Finance Director

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DISCUSSION:

A. Planning Commission

On February 26, 2020, the Planning Commission considered a draft Ordinance incorporating amendments to Chapter 29 of the Town Code, Sections 29.10.305 – 29.10.400 (Accessory Dwelling Units). Attachment 1 includes the staff report for the Planning Commission meeting. The Planning Commission forwarded a recommendation to the Town Council for approval of the amendments which are required to conform to the new State law, and forwarded specific direction on options to adopt less restrictive regulations for the creation of accessory dwelling units, as outlined below (see also the draft Ordinance, Attachment 5). Attachment 3 contains the verbatim minutes for the Planning Commission meeting.

**Section 29.10.320. (b) – Design and development standards.**

***Subsection (1) Number.***

The Zoning Regulations currently state that only one accessory dwelling unit may be permitted on a lot. On single- or two-family lots, the new State law requires at least one junior accessory dwelling unit contained within the space of a proposed or existing primary dwelling, and one detached accessory dwelling unit to be allowed. On multiple-family lots, the new State law requires at least a number equal to 25 percent of the existing multiple-family dwelling units rounded-up to the next whole number, within the portions of an existing multi-family dwelling not used as livable space, and two detached accessory dwelling units to be allowed. These requirements have been incorporated into the draft Ordinance (Attachment 5, page 4) to conform to the new State law.

***Options for Junior Accessory Dwelling Unit Configurations***

On single- or two-family lots, the new State law does not require a junior accessory dwelling unit contained within the space of a proposed or existing primary dwelling, to be allowed with an attached accessory dwelling unit; nor does the new State law require a junior accessory dwelling unit to be allowed within the space of a proposed or existing detached accessory dwelling unit. The Planning Commission recommended allowing these options for the creation of junior accessory dwelling units with attached accessory dwelling units or within detached accessory dwelling units. These recommendations have been incorporated into the draft Ordinance (Attachment 5, page 4).

***Subsection (3) Setbacks.***

***Option for Accessory Dwelling Unit Construction in front of Historic Resources***

The Planning Commission supported the incorporation of a standard clarifying that no accessory dwelling unit may be constructed in front of a primary dwelling that is a historic

DISCUSSION (continued):

resource, to prevent adverse impacts on historic resources. The proposed standard has been incorporated into the draft Ordinance (Attachment 5, page 5).

New attached accessory dwelling units in all residential zones and detached accessory structures that exceed a floor area of 800 square feet in the HR and RC zones would continue to be required to comply with the setbacks of the zone for a primary dwelling. However, notwithstanding other standards, the new State law [Section 65852.2(e)] allows at least one detached accessory dwelling unit that does not exceed a floor area of 800 square feet and a height of 16 feet, with minimum rear and side setbacks of four feet. The draft Ordinance (Attachment 5, page 5) revises the minimum detached accessory dwelling unit rear and side setback standards to four feet to conform to the new State law.

*Option for Reduced Setbacks for Attached Accessory Dwelling Units*

The new State law does not require attached accessory dwelling units to be allowed minimum rear and side setback standards of four feet. The Planning Commission did not recommend allowing this option for the creation of attached accessory dwelling units. The draft Ordinance (Attachment 5, page 4) continues to require new attached accessory dwelling units to comply with the setbacks of the zone for a primary dwelling.

***Subsection (4) Height.***

*Option for Second Story Accessory Dwelling Units on Historic Resources*

The Planning Commission supported the incorporation of a standard clarifying that an accessory dwelling unit may not be added to an existing second story of a primary dwelling that is a historic resource, to prevent adverse impacts on historic resources. The proposed standard has been incorporated into the draft Ordinance (Attachment 5, page 5).

The draft Ordinance (Attachment 5, page 5) revises the maximum height standard for detached accessory dwelling units to 16 feet to conform to the new State law.

***Subsections (5) Maximum unit size, (6) Floor area (FAR) standards, and (7) Lot coverage.***

The proposed amendments would continue to regulate the size of accessory dwelling units up to a maximum of 1,200 square feet through floor area ratio (FAR) and lot coverage standards. However, notwithstanding FAR and lot coverage standards, the new State law allows at least an accessory dwelling unit that does not exceed a floor area of 800 square feet. The draft Ordinance (Attachment 5, pages 5-6) incorporates this minimum allowance to conform to the new State law.

DISCUSSION (continued):

***Subsection (8) Parking.***

The new State law states that in cases where a garage is demolished, or rebuilt in the same location, in conjunction with the construction of an accessory dwelling unit, replacement spaces shall not be required. The draft Ordinance (Attachment 5, page 6) would remove the requirement for replacement spaces in these cases to conform to the new State law.

***Subsection (13) Conversion of existing floor area.***

The previous State law allowed an accessory dwelling unit to be contained within the space of an existing structure. The new State law also allows an accessory dwelling unit to be contained within the space of a structure that is rebuilt in the same location as an existing structure. The new State law further allows an expansion of 150 square feet beyond the physical dimensions of the existing structure, to accommodate for ingress and egress. The draft Ordinance (Attachment 5, page 7) incorporates these provisions to conform to the new State law.

PUBLIC OUTREACH:

Public input has been requested through the following media and social media resources:

- An eighth-page public notice in the newspaper;
- A poster at the Planning counter at Town Hall;
- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account; and
- The Town's NextDoor page.

PUBLIC COMMENTS:

At the time of this report's preparation, the Town has not received any additional public comments.

CONCLUSION:

Staff recommends that the Town Council:

1. Make the finding that the project is exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the project will have a significant effect on the environment (Attachment 4);
2. Make the finding as required that the amendments to Chapter 29 of the Town Code in the draft Ordinance are consistent with the General Plan (Attachment 4); and
3. Introduce the Ordinance of the Town of Los Gatos effecting the amendments to Chapter 29 of the Town Code (Attachment 5), by title only, with any specific changes identified and agreed upon by the majority of the Town Council.

ALTERNATIVES:

Alternatively, the Council may:

1. Continue this item to a date certain with specific direction to staff;
2. Refer the item back to the Planning Commission with specific direction; or
3. Take no action, leaving the Town Code unchanged.

ENVIRONMENTAL ASSESSMENT:

The project is exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the project will have a significant effect on the environment.

Attachments:

1. February 26, 2020 Planning Commission Staff Report with Exhibits 1-3
2. February 26, 2020 Planning Commission Desk Item Report with Exhibit 4
3. February 26, 2020 Planning Commission Verbatim Minutes
4. Required Findings
5. Draft Ordinance