



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 02/26/2020

ITEM NO: 4

DATE: February 21, 2020
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Forward a recommendation to the Town Council for approval of the 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:

Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding accessory dwelling units.

CEQA:

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 this project will have a significant effect on the environment.

FINDINGS:

- The project is Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3); and
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

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

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

Reviewed by: Planning Manager and Community Development Director

BACKGROUND (continued):

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not wholly conform to the minimum requirements of the new State law for the creation of accessory dwelling units is superseded until amendments to the local ordinance are adopted; however, the new State law does not limit the authority of jurisdictions to adopt less restrictive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.

Below is a discussion of a draft Ordinance incorporating amendments to Chapter 29 of the Town Code (Zoning Regulations), Sections 29.10.305 – 29.10.400 (Accessory Dwelling Units), which are required to conform to the new State law. The discussion includes options to adopt less restrictive regulations for the creation of accessory dwelling units.

DISCUSSION:

A. Town Code Amendments

Section 29.10.310. - Definitions

The Zoning Regulations currently define accessory dwelling units in Section 29.10.020. The draft Ordinance would relocate the accessory dwelling unit definition from Section 29.10.020 (Definitions) to Section 29.10.310 (Accessory Dwelling Units - Definitions) of the Town Code.

The Zoning Regulations do not currently allow junior accessory dwelling units; however, the new State law requires jurisdictions to allow junior accessory dwelling units. State law defines a junior accessory dwelling unit as a dwelling unit that does not exceed a floor area of 500 square feet and is contained within the space of a proposed or existing primary dwelling. A junior accessory dwelling unit must include a small food preparation area; however, it may share sanitation facilities with the primary dwelling. The draft Ordinance (Exhibit 2) includes a junior accessory dwelling unit definition to conform to the new State law.

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 and one detached accessory dwelling unit to be allowed. On multi-family lots, the new State law requires at least a number equal to 25 percent of the existing multi-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

DISCUSSION (continued):

accessory dwelling units to be allowed. These requirements have been incorporated into the draft Ordinance (Exhibit 2) to conform to the new State law.

Option

On single- or two-family lots, the new State law does not require a junior accessory dwelling unit 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 a detached accessory structure or accessory dwelling unit. The Planning Commission may recommend allowing these options for the creation of junior accessory dwelling units with attached accessory dwelling units or within detached accessory structures or accessory dwelling units.

Subsection (3) Setbacks

Option

A standard has been included in the draft Ordinance clarifying that no accessory dwelling unit may be constructed in front of a primary dwelling that is a historic resource, to prevent adverse impacts on historic resources.

The Planning Commission may recommend allowing this option for the creation of accessory dwelling units in front of historic resources.

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 current Zoning Regulations have minimum detached accessory dwelling unit rear and side setback standards of five feet. The draft Ordinance (Exhibit 2) revises the minimum detached accessory dwelling unit rear and side setback standards to four feet to conform to the new State law.

Option

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 may recommend allowing this option for the creation of attached accessory dwelling units with minimum rear and side setback standards of four feet.

DISCUSSION (continued):

Subsection (4) Height

Option

A standard has been included in the draft Ordinance 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 Planning Commission may recommend allowing this option for the creation of second story accessory dwelling units on historic resources.

The Zoning Regulations currently limit the height of detached accessory dwelling units to 15 feet. The new State law allows a detached accessory dwelling unit that does not exceed a floor area of 800 square feet to have a maximum height of 16 feet. The draft Ordinance (Exhibit 2) 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 maintain lot coverage standards. However, notwithstanding FAR and lot coverage standards, on a single- or two-family lot, the new State law allows at least an attached accessory dwelling unit that does not exceed a floor area of 800 square feet, or a junior accessory dwelling unit that does not exceed a floor area of 500 square feet; or a detached accessory dwelling unit that does not exceed a floor area of 800 square feet, and a junior accessory dwelling unit that does not exceed 500 square feet. On a multi-family lot, the new State law allows at least two detached accessory dwelling units that do not exceed a floor area of 800 square feet; and an accessory dwelling unit that does not exceed a floor area of 800 square feet that is contained within the portions of an existing multi-family dwelling that are not used as livable space. The draft Ordinance (Exhibit 2) incorporates these minimums to conform to the new State law.

Subsection (8) Parking

The Zoning Regulations currently address parking for accessory dwelling units in Section 29.10.150 (Number of off-street spaces required) and Section 29.10.320. The draft Ordinance would remove parking for accessory dwelling units from Section 29.10.150 (Number of off-street spaces required) and they would only be located in Section 29.10.320 of the Town Code.

The new State law allows that when a garage is demolished, or rebuilt in the same location, in conjunction with the construction of an accessory dwelling unit, replacement spaces cannot be required. The draft Ordinance (Exhibit 2) will remove the requirement for replacement spaces to conform to the new State law.

DISCUSSION (continued):

Subsection (13) Conversion of existing floor area

The current State law allows 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 reconstructed in the same location and to the same dimensions 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 ingress and egress. The draft Ordinance (Exhibit 2) incorporates these provisions to conform to the new State law.

B. Public Outreach

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

- 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 Next Door page.

PUBLIC COMMENTS:

At the time of this report's writing, the Town has not received any public comment.

CONCLUSION:

A. Recommendation

Staff recommends that the Planning Commission review the information included in the staff report and forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code in the draft Ordinance. The Commission should also include any comments or recommended changes to the draft Ordinance in taking the following actions:

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) (Exhibit 1);
2. Make the required finding that the amendments to Chapter 29 of the Town Code in the draft Ordinance are consistent with the General Plan (Exhibit 1); and
3. Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code in the draft Ordinance (Exhibit 2).

CONCLUSION (continued):

B. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the draft Ordinance with modifications; or
2. Forward a recommendation to the Town Council for denial of the draft Ordinance; or
3. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Findings
2. Draft Ordinance
3. California Government Code Section 65852