



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 11/07/2023

ITEM NO: 21

DATE: October 12, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29 'Zoning Regulations,' of the Town Code Regarding Accessory Dwelling Units and Correcting Outdated References in Town Code Sections Pertaining to Termination of Nonconforming Use Status, Requirements for a Two-Unit Development Under Senate Bill 9 (SB 9), and Civil Penalties." The Environmental Impacts of the Proposed Amendments to the Town Code were Analyzed in the Environmental Impact Report for the 2040 General Plan. Additionally, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3). Town Code Amendment Application A-23-002. Project Location: Town Wide. Applicant: Town of Los Gatos.

RECOMMENDATION:

Introduce an Ordinance, by title only, titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29 'Zoning Regulations,' of the Town Code Regarding Accessory Dwelling Units and Correcting Outdated References in Town Code Sections Pertaining to Termination of Nonconforming Use Status, Requirements for a Two-Unit Development Under Senate Bill 9 (SB 9), and Civil Penalties" (Attachment 1).

BACKGROUND:

In 2016, the Governor signed several bills intended to address the State's housing crisis by creating new housing opportunities through accessory dwelling units (ADU) and junior accessory dwelling units (JADU). Through 2022, the Governor continued to sign additional bills into law that further streamlined the permitting process for ADUs and JADUs. As a result, the Town updated the Town Code regarding ADUs/JADUs in 2017 and 2020 to comply with updated State laws.

PREPARED BY: Sean Mullin, AICP
Senior Planner

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

BACKGROUND (continued):

Since the current ADU/JADU regulations have been in place, additional bills have been signed into law and the Town has received clarification from the California Department of Housing and Community Development (HCD) on specific aspects of the Town's ADU/JADU regulations. Additionally, staff has received feedback from Town residents regarding privacy impacts caused by new ADUs on neighboring properties.

In September 2022, the Governor signed Senate Bill (SB) 897 and Assembly Bill (AB) 2221, which made substantial changes in the development standards applicable to ADUs, including height, front yard setbacks, owner-occupancy, permit review time limits, and fire sprinklers (Attachment 3, Exhibits 3 and 4). The new State ADU/JADU regulations took effect on January 1, 2023. Local ordinances that do not wholly conform to the new State regulations (Attachment 3, Exhibit 5) are superseded until conforming local ordinances are adopted.

Through an audit of the Town's current ADU Ordinance (Attachment 3, Exhibit 6) against the applicable sections of the CA Government Code (Attachment 3, Exhibit 5), staff determined that a complete overhaul of the Town's ADU regulations is necessary. The Draft Ordinance, included as Attachment 1, would align the Town's regulations with State law, respond to HCD feedback, introduce objective design standards, and address privacy impacts created by construction of new ADUs and JADUs.

On September 13, 2023, the Planning Commission considered the draft ADU Ordinance amendments, staff report (Attachment 3), and addendum (Attachment 4). The Planning Commission received and considered public comments on the Draft Ordinance, reviewed the proposed changes, and recommended approval to Town Council with the recommendation that parking requirements for all ADUs be eliminated as reflected in the verbatim minutes (Attachment 5) and summarized below.

DISCUSSION:

While the Draft Ordinance has mostly new provisions, the existing regulations have been carried forward, when possible. Attachment 6 shows existing language carried forward (highlighted in green), with a reference to where the existing language can be found in the Draft Ordinance (highlighted in yellow). The Planning Commission staff report (Attachment 3) provides a detailed section-by-section discussion of the Draft Ordinance and provides staff's assessment of the existing regulations and how and why they are modified under the Draft Ordinance. Below is a discussion of the additional modifications made to the Draft Ordinance in response to the Planning Commission's recommendation and additional consideration by staff.

DISCUSSION (continued):

Sec. 29.10.320. General requirements and restrictions.

Parking: The Planning Commission recommended that parking requirements be eliminated for all ADUs and JADUs. The following language has been removed from the Draft Ordinance:

- (f) *Parking.* One (1) parking space per accessory dwelling unit or per bedroom, whichever is less, shall be provided in addition to the required minimum number of parking spaces for the primary dwelling. These spaces may be provided in a front or side setback abutting a street on a driveway (provided that it is feasible based on specific site or fire and life safety conditions) or through tandem parking. In addition to parking otherwise required for units as set forth in section 29.10.150 of the Town Code, the number of off-street parking spaces required by this Chapter for the primary dwelling shall be provided prior to the issuance of a Building Permit or final inspection, for a new accessory dwelling unit.
- (1) *Exceptions.* No parking space shall be required under any of the following conditions:
- a. No additional parking shall be required for a junior accessory dwelling unit.
 - b. The accessory dwelling unit is located within one-half mile walking distance of public transit.
 - c. The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - d. The accessory dwelling unit is contained within the proposed or existing space of, or constructed in substantially the same location and manner as, an existing primary dwelling or accessory structure.
 - e. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - f. When there is a car share vehicle (as defined by the California Vehicle Code) located within one (1) block of the accessory dwelling unit.
 - g. When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or multi-family dwelling on the same lot.
 - h. When a garage is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, any lost off-street parking spaces required for the primary dwelling shall not be required to be replaced.
 - i. When the Director finds that the lot does not have adequate area to provide parking.

The language above has been replaced in the Draft Ordinance with the following, reflecting the Planning Commission's recommendation:

DISCUSSION (continued):

- (f) *Parking.* No parking shall be required for a new accessory dwelling unit and/or junior accessory dwelling unit.

Design standards: The purposes of the objective design standards that are included in the Draft Ordinance are to ensure that the residential appearance of a property is maintained, protect the privacy of neighbors, and require that an ADU and/or JADU is compatible with the primary dwelling and the neighborhood. Upon further consideration after the Planning Commission hearing, staff recommends that the Council include the following additional objective design standards below to better achieve the purpose of maintaining the residential appearance of the property.

1. *Outside stairways.* Outside stairways serving a second-story accessory dwelling unit and/or junior accessory dwelling unit shall not be constructed on any building elevation facing a street. This standard shall not preclude construction of an 800 square-foot accessory dwelling unit.
2. *Detached and/or attached accessory dwelling units.* A detached and/or attached accessory dwelling unit shall match the existing architectural style of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling. An exception to this requirement may be granted pursuant to the requirements of the California Code of Regulations, Title 24.
3. *Attached garage conversion.* An existing attached garage that is converted to an accessory dwelling unit and/or junior accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match those of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling to remove any appearance that the structure was originally a garage.
4. *Detached garage conversion.* An existing detached garage that is converted to an accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match the remaining portions of the detached structure by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim that remove any appearance that the structure was originally a garage.

Staff has incorporated the additional recommended objective design standards into the Draft Ordinance included as Attachment 1. If the Council would not like to include them, a separate Draft Ordinance has been prepared without the additional recommended objective design standards included as Attachment 2.

PUBLIC OUTREACH:

Staff conducted outreach through the following media and social media resources, as well as direct communication with stakeholders as summarized below:

- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account;
- The Town's NextDoor page; and
- Direct email communication to local architects and designers.

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

ENVIRONMENTAL ASSESSMENT:

The environmental impacts of the proposed amendments to the Town Code were analyzed in the Environmental Impact Report for the 2040 General Plan. In addition, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to ADUs and JADUs.

CONCLUSION:

Staff recommends that the Town Council introduce the ordinance with the Planning Commission's and staffs' recommendations by taking the following steps:

1. Make the finding that the environmental impacts of the proposed amendments to the Town Code were analyzed in the Environmental Impact Report for the 2040 General Plan. In addition, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to accessory dwelling units and junior accessory dwelling units (Attachment 1, Section VI);
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 (Attachment 1, Section VII); and
3. Introduce an ordinance of the Town Council of the Town of Los Gatos, by title only, amending Chapter 29, "Zoning Regulations," of the Town Code regarding accessory dwelling units. The proposed amendments also correct outdated references to sections of the Town Code included in sections pertaining to termination of nonconforming use status, requirements for a two-unit development under Senate Bill 9 (SB 9), and civil penalties (Attachment 1).

ALTERNATIVES:

Alternatively, the Town Council may:

1. Introduce the ordinance with the Planning Commission's recommendations and without staffs' recommendations by taking the following steps:
 - a. Make the finding that the environmental impacts of the proposed amendments to the Town Code were analyzed in the Environmental Impact Report for the 2040 General Plan. In addition, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to accessory dwelling units and junior accessory dwelling units (Attachment 2, Section VI);
 - b. Make the required finding that the amendments to Chapter 29 of the Town Code in the Draft Ordinance are consistent with the General Plan (Attachment 2, Section VII); and
 - c. Introduce an ordinance of the Town Council of the Town of Los Gatos, by title only, amending Chapter 29, "Zoning Regulations," of the Town Code regarding accessory dwelling units. The proposed amendments also correct outdated references to sections of the Town Code included in sections pertaining to termination of nonconforming use status, requirements for a two-unit development under Senate Bill 9 (SB 9), and civil penalties (Attachment 2); or
2. Continue this item to a date certain with specific direction to staff;
3. Refer this item back to the Planning Commission with specific direction; or
4. Take no action, leaving the Town Code unchanged.

Attachments:

1. Draft Ordinance including Planning Commission and staff recommendations
2. Draft Ordinance including Planning Commission recommendations only
3. September 13, 2023 Planning Commission Staff Report (with Exhibits 1-8)
4. September 13, 2023 Planning Commission Addendum
5. September 13, 2023 Planning Commission Verbatim Minutes
6. Updated Disposition of Current Ordinance