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A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Kendra Burch, Chair Jeffrey Barnett, Vice Chair Susan Burnett Adam Mayer Joseph Sordi
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
Transcribed by:	Vicki L. Blandin (619) 541-3405

1 impacting ADUs on an almost annual basis. The latest bills
2 impacting ADUs shown on the slide made additional changes
3 to ADU law necessitating an update to the Town Code and
4 ordinance once again.

5 The draft ordinance being considered tonight
6 carries forward much of the current ordinance with some
7 revisions and reorganization to align with State laws
8 detailed in your Staff Report. The most substantive changes
9 have to do with the maximum number of ADUs that the State
10 requires the Town to allow on residential property, and the
11 two development options provided in the draft ordinance.
12

13 There are several different types of ADUs, as
14 shown here.

15 There are detached ADUs, which are those that are
16 physically separated from the main dwelling.

17 Attached ADUs are those constructed as an
18 addition to an existing residence, or as part of a new
19 residence.

20 Conversion ADUs are units created from existing
21 space within a residence or accessory building.

22 Then, finally, JADUs are smaller units maxing out
23 at 500 square feet and located within the main residence.
24

25 One of the most significant changes coming from
State laws are the creation of two categories of ADUs

1 included in the draft ordinance as Town-Standard ADUs and
2 By-Right ADUs.

3 The Town-Standard ADU is subject to the Town's
4 standard of ADU development requirements, and benefits from
5 the 10% FAR increase that has been on the books since 2017.

6 By-Right ADUs are something new to the code and
7 are exempt from FAR, but are limited to 800 square feet.

8 The draft ordinance is consistent with State law
9 in allowing for multiple ADUs on a residential property.

10 Single-family properties would be allowed—and
11 under state law currently—one Standard-ADU and three By-
12 Right ADUs in combination of those three different product
13 types, the detached, conversion, and JADU, as shown on that
14 table.

15 Existing multi-family properties are allowed at
16 least one conversion ADU, or up to 25% of the existing
17 units, and up to eight detached ADUs. A new multi-family
18 development would be allowed two detached ADUs.

19 In conclusion, Staff recommends that the Planning
20 Commission review the draft ordinance and forward a
21 recommendation to the Town Council to adopt the ordinance.

22 This concludes Staff's presentation, and we are
23 available to answer any questions.

1 CHAIR BURCH: Thank you, Mr. Mullin. Are there
2 any questions of Staff at this time? Commissioner Mayer.

3 COMMISSIONER MAYER: Would you mind going back to
4 the previous slide? Just for clarification, in a single-
5 family dwelling, four total number of ADUs allowed per lot:
6 one Town-Standard and three By-Right. Does that mean you
7 could effectively have two detached ADUs, one that's up to
8 1,200 square feet and one that is 800 square feet or under?
9

10 SEAN MULLIN: Correct.

11 COMMISSIONER MAYER: Okay. Is that new, or is
12 that...

13 SEAN MULLIN: It would be new to our code. The
14 State has allowed it for some time, not a long time; I
15 can't remember if it was January 1st of this year. But these
16 By-Right units are also referred to as "66323 units," or
17 "State exempt units." We've chosen a little bit less of a
18 mouthful; we call them By-Right ADUs.

19 CHAIR BURCH: I appreciate that. Any further
20 questions of Staff? Commissioner Sordi.

21 COMMISSIONER SORDI: Can you articulate the
22 difference between By-Right and Standard? I always figured
23 that By-Right was not discretionary, but I don't think any
24 of these ADUs are discretionary, right?
25

1 SEAN MULLIN: That's correct. That doesn't
2 change. All this is ministerial approval for the Building
3 Permit process; it doesn't go through Planning.

4 By-Right, the real big difference is they're not
5 subject to floor area, they're not subject to any Objective
6 Development Standards that are specific to the Town, so our
7 Town-Standard development requirements do include some
8 Objective Development Standards.

9
10 The ways that we've structured this code was to
11 pull some of the ones that used to be specific to an ADU
12 product type and made them apply to all, mainly the ones
13 that protect privacy, like a prohibition of second-story
14 decks and balconies. That would apply to both products.

15 The kind of out there is that under the State law
16 no development requirement can be used to preclude the
17 development of a By-Right ADU, so if there is something in
18 our code and someone makes the case that it's preventing
19 them from creating the number of ADUs as the size
20 limitations that are allowed, we would have to allow them,
21 but we were pretty careful in organizing the code so that
22 the things that we're applying to both Town-Standard and
23 By-Right ADUs were not the types of things that would
24 preclude the development of a By-Right ADU, and then have
25 some specifics for the Town-Standard ADU's.

1 CHAIR BURCH: Are there any further questions of
2 Staff at this time? Commissioner Mayer.

3 COMMISSIONER MAYER: Maybe I'm getting too deep
4 in the weeds here, but I'm curious now. With the Town-
5 Standard ADU and the By-Right ADU, I'm going to ask you,
6 Mr. Mullin, some hypotheticals.

7 Let's say a homeowner wants to build one Town-
8 Standard ADU, and they also want to do one By-Right
9 detached ADU. Do those have to be two separate structures
10 in the back yard, or could the Town-Standard ADU and By-
11 Right ADU be attached to each other, even though they are
12 detached from the main, primary dwelling?
13

14 SEAN MULLIN: I'd have to get pretty deep into
15 the code. I believe they have to be separate. I'd like to
16 look carefully, and if given a minute, I can take a look.

17 CHAIR BURCH: We can come back to that.

18 COMMISSIONER MAYER: Yes, we can come back to it.

19 CHAIR BURCH: We can come back to that if you
20 want to take a moment.

21 COMMISSIONER MAYER: I guess a follow-up question
22 to that would be if they do need to be separate, what is
23 the setback between the two structures minimum?
24

25 SEAN MULLIN: The Town requires a 5' separation
measured wall-to-wall, or if there is a porch with a post

1 supporting it, we would measure it to that post, anything
2 that touches the ground. So, eaves could get into that 5'.

3 COMMISSIONER MAYER: All right, the detached By-
4 Right ADU, does that have to conform to the same side yard
5 and rear yard setbacks?

6 SEAN MULLIN: Both of the product types benefit
7 from a 4' side and rear setback requirement. The front
8 setback requirement would apply to the Town-Standard ADU
9 and the By-Right ADU as long as it didn't preclude the
10 development of the By-Right ADU. So, if you have a tight
11 lot that doesn't have any room physically to put a By-Right
12 ADU, it could be put in the front setback.

13 COMMISSIONER MAYER: Follow-up question. Was
14 there a reason that the Town of Los Gatos... How did the Town
15 of Los Gatos arrive at the 4' setback? Because some
16 jurisdictions, such as San Jose, now allow you to go right
17 up to the property line.

18 SEAN MULLIN: The maximum that the Town can
19 require by State law is 4', so that has always been on the
20 books. I know there are other jurisdictions that go down to
21 a zero or 2', but the Town has always used 4', consistent
22 with State law.

23 COMMISSIONER MAYER: Got it. Thanks.
24
25

1 CHAIR BURCH: Other questions? All right. I will
2 now open the public portion of Item 3, and I currently have
3 two cards. If there is anybody else that wants to speak and
4 has not yet turned in a card, please do so.

5 SEAN MULLIN: And through the Chair, those two
6 cards that I handed you are for Item 4.

7 CHAIR BURCH: I'm so sorry. Thank you. And that
8 was for number two. Then I have no speaker cards at the
9 moment for this particular item. Is there anybody on Zoom
10 that wants to discuss this topic?

11 DIRECTOR PAULSON: I don't see any hands raised.

12 CHAIR BURCH: All right then. Then we will close
13 the public portion of this item, and I will ask the
14 Commissioners if anyone wants to make a motion or ask
15 continued questions of Staff? Commissioner Sordi, you
16 raised your hand.

17 COMMISSIONER SORDI: Yes, I'll make a motion.
18 I'll make the motion to forward a recommendation of
19 approval to the Town Council for an ordinance amending
20 Chapter 29, Zoning Regulations, of the Town Code regarding
21 Accessory Dwelling Units and definitions, subject to the
22 findings under CEQA Section 15061, and subject to the
23 required findings under the General Plan relating to
24 Chapter 29 of the Town Code.
25

1 CHAIR BURCH: Is there a second? Commissioner
2 Mayer.

3 COMMISSIONER MAYER: Second.

4 CHAIR BURCH: All right, is there any further
5 discussion? Commissioner Mayer.

6 COMMISSIONER MAYER: Sorry, yes, I do have a
7 question. If the Council approves this, when would these
8 amendments go into effect?

9 SEAN MULLIN: Thank you for that question. If
10 they decide to adopt the ordinance, they will introduce it
11 at the next meeting when this is scheduled. There needs to
12 be a second reading. Following that second reading, it
13 would go into effect 30 days following.

14 That said, the Town has been and needs to
15 continue to default to State law where our ADU Ordinance
16 conflicts with State Law, which we've been doing.

17 CHAIR BURCH: And to clarify, I understand that
18 to mean basically this is already in effect. That's what I
19 understand.

20 SEAN MULLIN: It's de facto, yes.

21 CHAIR BURCH: All right, thank you. Is there any
22 further discussion? Is there a second motion that anyone
23 wants to make? All right, seeing none, then I will call the
24 question. All in favor? Passes unanimously.
25

1 Are there appeal rights on this item, Mr.
2 Paulson? No.

3 SEAN MULLIN: Since this is a recommendation,
4 there are no appeal rights.

5 CHAIR BURCH: Okay. I often forget to ask that
6 question, so I just ask at the end of every one of them
7 now.

8 (END)

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