

March 17, 2020

Dear Town Council,

**I am writing to encourage you to adopt 4 foot setbacks for attached ADUs.** I do this because it is in the best interest of our town and also it is the law.

**The State is very clear that the new law requires cities to have four foot setbacks for attached ADUs.**

<sup>1</sup>They wrote, "...(N)o jurisdiction can require a setback of more than four feet from the side and rear lots for ADUs, in accordance with state statute. Any jurisdictions' policies that exceed these setback requirements for ADUs shall be deemed void and unenforceable." They are equally clear that it is illegal to require a variance for four foot setbacks, "The jurisdiction in this scenario would not be able to require a variance and associated fee to facilitate policies that exceed state minimums."

**If the Town does not adopt a four foot setback, the state will rule it invalid and the Town Council will have to revisit this issue soon.** The state is required by law to review all ordinances and they are clear they will find the current ordinance unenforceable. Neither staff nor the Planning Commission knew HCD's opinion when they made their recommendations. I suspect if they knew the ordinance would be found "null and void" they would have made a separate recommendation.

**Equally importantly, it is in our town's interest to promote attached ADUs, rather than detached ones.**

The current proposal is more permissive of detached ADUs, because detached ADUs have four foot setbacks while attached require 10+ foot setbacks. This means more detached ADUs will be built if the current proposal is adopted. But really, we want people to build attached ADUs rather than detached ones. Because they share a wall with the main house, homeowners will have a stronger incentive for ensuring noise levels are moderate. Also, attached ADUs are less likely to shadow or impact a neighbor's property. Attached ADUs are great for family members, which is just what we want to encourage.

**Overall, ADUs are a good way to add new housing for Los Gatos.** They can be housing for our parents, our children or even us as we age. They fit in and complement the small town feel of Los Gatos. It is a personal matter for my family as we look for housing for my elderly mother. She has become increasingly disabled, using a walker and always with assistance as her eyesight and hearing have failed her. She is mentally sharp, however. It is our desire for our mother to live her remaining time on Earth surrounded by her family who can care for her 24X7.

Again, I encourage you to allow **adopt 4 foot setbacks for attached ADUs**

Sincerely,

Laurence and MaryAnn Berkowitz 104 Bella Vista Court, LG 95032

---

<sup>1</sup> The law reads as follows" No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, **and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.**"

*This Page  
Intentionally  
Left Blank*