



**PUBLIC HEARING**

**Agenda Item # 6**

**AGENDA REPORT SUMMARY**

**Meeting Date:** February 27, 2018

**Subject:** Accessory Structure Zoning Code Amendments

**Prepared by:** Zachary Dahl, Planning Services Manager

**Reviewed by:** Jon Biggs, Community Development Director

**Approved by:** Chris Jordan, City Manager

**Attachment(s):**

1. Ordinance No. 2018-438
2. Draft Planning Commission Meeting Minutes, February 1, 2018
3. Planning Commission Agenda Report, February 1, 2018

**Initiated by:**

City Council

**Previous Council Consideration:**

June 27, 2017

**Fiscal Impact:**

None

**Environmental Review:**

This Code amendment is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended, because significant impacts to the environment are not anticipated.

**Policy Question(s) for Council Consideration:**

- Do the amendments clarify and improve the site standards for detached accessory structures in residential districts to ensure the structures are not excessive in size and height, and have an appropriate relationship to adjacent properties while also providing property owners reasonable opportunity and flexibility to develop and enjoy the use of an accessory structure?
- Are the amendments in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City?

**Summary:**

- The amendments would update the regulations for height, size and placement of accessory structures in residential zoning districts. Specifically, the amendments would:
  - Create a new chapter in the Zoning Code, titled "Accessory Structures in R Districts," to consolidate all the individual accessory structure regulations located in various sections of the Zoning Code;



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- Increase the minimum setback for accessory structures in a rear yard setback area from 2.5 feet to five feet;
  - Require accessory structures to meet a daylight plane on both the side and rear property lines; and
  - Establish a maximum lot coverage for accessory structures within the rear yard setback area.

**Staff Recommendation:**

Move to introduce and waive further reading of Ordinance No. 2018-438 to amend Title 14 of the Los Altos Municipal Code pertaining to accessory structures in residential districts



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### **Purpose**

The purpose of these amendments is to clarify and improve the site standards for detached accessory structures in residential zone districts, increase the minimum setbacks to ensure a reasonable degree of privacy for neighboring properties, and increase the use of a daylight plane to minimize the appearance of bulk for new accessory structures.

### **Background**

On May 9, 2017 and May 23, 2017, the City Council held public hearings to consider adoption of an updated Accessory Dwelling Unit (ADU) Ordinance to comply with State legislation. During the meetings, questions were raised about the City's height and setback requirements for accessory structures. Under the proposed ADU regulations, and in compliance with State law, an existing accessory structure can be converted into an ADU even if it does not meet the required development standards for a new ADU. Due to concerns about the proposed ADU regulations not being in alignment with the accessory structure regulations, the Council voted to continue consideration of the proposed ADU regulations and requested additional information about the City's existing accessory structure regulations.

On June 27, 2017, the City Council received a report from staff on the City's existing accessory structure requirements. Following public comment and discussion, the Council directed staff to prepare an ordinance amending the Zoning Code to increase setbacks for accessory structures and to clean up conflicting or confusing language in the Municipal Code.

On November 16, 2017 and February 1, 2018, the Planning Commission held public hearings to consider amendments to the City's accessory structure regulations in response to the City Council's direction. Following public comment and commissioner discussion, the Commission voted 4-1 to recommend approval of the amendments to the City Council. The recommendation included changing the accessory structure daylight plane from a 4:10 pitch to a 5:12 pitch to be consistent with standard design and construction practices. Commissioners Bodner and Oreizy were absent, and Commissioner Enander was opposed due to concerns that accessory structures should have larger setbacks to protect adjacent properties. The draft meeting minutes and agenda report from the February 1, 2018 meeting are included as Attachments 2 and 3.

### **Discussion/Analysis**

#### New Zoning Code Chapter

To comprehensively address City Council's direction, the accessory structure regulations for residential zone districts are being simplified and consolidated into one new chapter in the Zoning Code. This chapter, titled "Accessory Structures in R Districts," would be the primary source for site standards and regulations that pertain to accessory structures.



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Currently, all of the single-family districts (R1-10, R1-H, R1-20 and R1-40) contain duplicate accessory structure regulations and the multi-family districts (R3-4.5, R3-5, R3-3, R3-1.8 and R3-1) contain no accessory structure regulations. In addition, The General Standards and Exceptions Chapter (14.66) contains two sections that are applicable to accessory structures – Distance Between Structures and Lot Coverage Exception for Arbor (Gazebo) and Pergola (Trellis) Structures. All of these regulations will now be located in Chapter 14.15, with the other sections removed. Many of the accessory structure requirements in this chapter will remain the same as in the existing Code, but the language has been updated to simplify the wording and improve legibility.

#### Accessory Structure Size, Height and Placement

All of the existing height requirements are proposed to remain the same; however, the minimum setback for accessory structures located in a rear yard setback area is proposed to increase from 2.5 feet to five feet. This increased setback, along with a new rear yard lot coverage limitation and expanded use of the daylight plane, are intended to move taller accessory structures away from adjacent properties while still providing homeowners with flexibility to place shorter accessory structures closer to a property line in order to maintain a larger useable rear yard space.

To limit the overall size of accessory structures, or portions of these structures, placed within a required rear yard setback area, a new rear yard lot coverage limitation of 35-percent has been added. Since one of the primary functions of a rear yard setback area is to provide open space and a separation from adjacent properties, this provision would ensure that the allowable size of accessory structures is proportional to the overall size of the rear yard space. The 35-percent lot coverage threshold is consistent with the R1-10 District's lot coverage requirement and would ensure that a rear yard space does not become overcrowded with accessory structures.

Currently, all accessory structures located in a rear yard setback are required to comply with a daylight plane that is measured from both side property lines and a stepped setback, based on the structure's overall height, from the rear property line. To simplify the regulations, the stepped setback from the rear property line has been eliminated and the daylight plane is now applied to both side and rear property lines. This amendment will simplify the Code and allow flexibility for placement of shorter accessory structures while ensuring that taller accessory structures have larger setbacks from all property lines.

#### Code Amendment Findings

Overall, the goal of these amendments is to clarify and improve the site standards for detached accessory structures in residential districts to ensure the structures are not excessive in size and height, and have an appropriate relationship to adjacent properties while also providing property owners opportunity and flexibility to develop and enjoy the use of an accessory structure if desired. As outlined in attached ordinance, the amendments are in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City, and



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are in conformance with the City of Los Altos General Plan because they will protect the privacy of neighbors and minimize the appearance of bulk for new accessory structures.

### **Options**

- 1) Introduce and waive further reading of Ordinance No. 2018-438

**Advantages:** The City's accessory structure regulations will be clarified and updated to ensure the structures are not excessive in size and height, and have an appropriate relationship to adjacent properties.

**Disadvantages:** Property owners will have additional limitations on where an accessory structure can be placed within their rear yard area.

- 2) Decline to introduce and waive further reading of Ordinance No. 2018-438

**Advantages:** The City's existing accessory structure regulations will be maintained.

**Disadvantages:** The existing accessory structure regulations, which includes some conflicting and confusing language, would be maintained.

### **Recommendation**

The staff recommends Option 1.

**ORDINANCE NO. 2018-438**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING “TITLE 14 – ZONING” OF THE LOS ALTOS MUNICIPAL CODE PERTAINING TO ACCESSORY STRUCTURE REGULATIONS IN RESIDENTIAL DISTRICTS**

**WHEREAS**, the City of Los Altos initiated an application (17-CA-04) to amend Title 14 of the Los Altos Municipal Code pertaining to the site standards for accessory structures in residential zoning districts, referred herein as the “CA”; and

**WHEREAS**, the amendments are in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City because they clarify and improve the site standards for detached accessory structures in residential districts to ensure the structures are not excessive in size and height, and have an appropriate relationship to adjacent properties while also providing property owners opportunity and flexibility to develop and enjoy the use of an accessory structure if desired; and

**WHEREAS**, the amendments are in conformance with the City of Los Altos General Plan because they will protect the privacy of neighbors and minimize the appearance of bulk for new accessory structures, and

**WHEREAS**, required public notices and public hearings were duly given and duly held in accordance with the applicable provisions of the California Government Code and Chapter 14.86 of the Los Altos Municipal Code; and

**WHEREAS**, the CA was processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; and

**WHEREAS**, the Planning Commission held duly noticed public hearings on the CA on November 16, 2017 and February 1, 2018, at which it recommended adoption of the CA; and

**WHEREAS**, the City Council held a duly noticed public hearing on the CA on February 27, 2018; and

**WHEREAS**, the location and custodian of the documents or other materials which constitute the record of proceedings upon the City Council’s decision are based in the Office of the City Clerk; and

**WHEREAS**, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended, because significant impacts to the environment are not anticipated.

**NOW THEREFORE**, the City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1. AMENDMENT OF CODE:** Title 14 of the Los Altos Municipal Code is hereby amended to include a new chapter as follows:

**CHAPTER 14.15 – ACCESSORY STRUCTURES IN R DISTRICTS**

**14.15.010 - Purpose**

The purpose of this Chapter is to provide site standards for the placement of detached accessory structures in all R (residential) districts. Both enclosed and unenclosed accessory structures, as defined in Chapter 14.02, are subject to the regulations contained herein.

**15.15.020 - Size, Height and Placement**

- A. Accessory structures may not be located in a required front yard setback area, with the exception of a single arbor-style entry element as provided in Chapter 14.72.
- B. Accessory structures may be located on other areas of a property as outlined in Table 1:

<b><u>Table 1</u></b>			
<u>Location</u>	<u>Maximum Size</u>	<u>Max. Height</u>	<u>Minimum Setback</u>
<u>Required side yard setback area (interior and exterior)</u>	<u>120 square feet</u>	<u>6 feet</u>	<u>None</u>
<u>Required rear yard setback area</u>	<u>800 square feet</u>	<u>12 feet</u>	<u>0 feet when under 6 feet in height</u>
			<u>5 feet when between 6-12 feet in height</u>
			<u>2.5 feet for an eave overhang, or similar projection, when over 6 feet in height</u>
<u>Main structure’s building envelope (meets all required setbacks)</u>	<u>No size limit</u>	<u>12 feet</u>	<u>None</u>

- 1. When an accessory structure is located in a side yard setback area, it shall be screened from off-site view with solid fencing which is not lower in height than the accessory structure and which is constructed in conformance with the provisions of Chapter 14.72 of this title.
- 2. When an accessory structure is located in the main structure’s building envelope, the height limit may be extended up to eighteen (18) feet if the additional height is necessary to establish architectural compatibility with the main structure.

**14.15.030 - Rear Yard Coverage**

In addition to compliance with the maximum allowable coverage and floor area ratio as provided by the subject zone district, the maximum coverage within the required rear yard setback area for all accessory structures, or portions thereof, that exceed six feet in height shall be thirty-five (35) percent of the total rear yard setback area.

#### **14.15.040 - Daylight Plane**

No portion of an accessory structure shall extend above or beyond a daylight plane as follows:

- A. The daylight plane starts at a height of six feet and proceeds inward at a 5:12 slope to a distance of ten (10) feet from side and rear the property lines;
- B. All appurtenances, including chimneys, vents and antennas, shall be within the daylight plane;
- C. The daylight plane is not applied to a side or rear property line when it abuts a public alley or public street.

#### **14.15.050 - Distance Between Structures**

- A. When an accessory structure is located in a required side yard setback, a minimum clearance of five feet is required. The clearance may be provided between the accessory structure and the main structure, or between the accessory structure and the property line.
- B. When an accessory structure exceeds six feet in height and is located in a required rear yard setback, a minimum clearance of ten (10) feet is required between the accessory structure and the main structure, and a minimum clearance of five feet is required between the accessory structures.
- C. For the purposes of this section, clearance is measured from outside edge of wall of each structure.

#### **14.15.060 – Coverage Exception for Open Accessory Structures.**

- A. Up to five percent of the lot area, but not more than five hundred (500) square feet, may be occupied by a detached accessory structure, such as an arbor (gazebo) or pergola (trellis) structure, that is open on all sides, with such area not being counted as lot coverage in residential zoning districts.
- B. No more than two hundred (200) square feet of an open accessory structure which is exempt from lot coverage, as provided in subsection (A) above, may have a solid roof.
- C. Accessory structures allowed by this section are subject to the rear yard coverage limitation as proscribed in Section 14.15.030.

**SECTION 2. AMENDMENT OF CODE:** Sections 14.06.120, 14.08.120, 14.10.120 and 14.12.120 in Title 14 of the Los Altos Municipal Code are hereby amended as follows:

~~Accessory structures, or~~ **Outdoor kitchens, barbeques, fireplaces and swimming pools.**

- A. ~~Accessory structures that are no more than six feet in height may be located in interior and exterior side and rear yard setbacks subject to the following provisions:~~



- ~~2. The maximum width of the accessory structure shall be five feet.~~
  - ~~3. The maximum length of the accessory structure shall be sixteen (16) feet.~~
  - ~~4. The accessory structure shall be screened from off-site view with solid fencing which is not lower in height than the accessory structure and which is constructed in conformance with the provisions of Chapter 14.72 of this title.~~
  - ~~5. In no case shall there be less than a five-foot clearance between either the accessory structure and the main structure or the accessory structure and the property line.~~
- ~~B. Accessory structures that are more than six feet in height may be located in the required rear yard setback area or in the main structure's building envelope, subject to the following provisions:~~
- ~~1. Accessory structures shall have a minimum setback of two and one-half feet from the side property line and a minimum setback from the rear property line as follows:
    - ~~i. Two and one-half feet when the structure is under eight feet in height;~~
    - ~~ii. Five feet when the structure is between eight and ten (10) feet in height;~~
    - ~~iii. Seven and one-half feet when the structure is between ten (10) and twelve (12) feet in height; and~~
    - ~~iv. Two and one-half feet when the rear property line abuts an alley.~~~~
  - ~~2. No portion of any accessory structure shall project above a daylight plane, beginning at a height of six feet at the side property line and increasing at a slope of four feet for each ten (10) feet of distance from the side property line to a distance of ten (10) feet from the side property line.~~
  - ~~3. The maximum allowable height for accessory structures shall be twelve (12) feet.~~
  - ~~4. The maximum allowable size for each accessory structure located in the required rear yard setback area shall be eight hundred (800) square feet of gross floor area.~~
  - ~~5. Notwithstanding the provisions of Section 14.66.220 of this title, no portion of an accessory structure, including but not limited to roof eaves, chimneys and vents, shall project into any required setback or daylight plane as outlined in this subsection B.~~
  - ~~6. The architectural and site review committee may approve an accessory structure located entirely within the main structure's building envelope to extend up to eighteen (18) feet in height if the committee finds and determines that the additional height is necessary in order to establish architectural compatibility with the main structure.~~
- ~~C. Outdoor barbecues, fireplaces, sinks and similar structures located within the required rear yard setback shall be set back a minimum of five feet from any property line. Said structures shall not be located in the required front or side yard setback areas.~~
- ~~D. Swimming pools, hot tubs, and spas located within the required rear yard setback shall be set back a minimum of five feet from any property line. The setback shall be measured from the outside edge of the pool structure. Said structures shall not be located in a required front or side yard setback area.~~
- ~~E. Accessory structures containing swimming pool motors and equipment shall not be located in a required interior side yard setback area.~~

- A. Outdoor kitchens, barbeques, fireplaces, and similar structures shall be allowed in the main structure's building envelope, and in the required rear yard setback with a minimum setback of five feet from any property line. Said structures shall not be located in the required front or side yard setback areas.
- B. Swimming pools, hot tubs, and spas shall be allowed within the main structure's building envelope, and the required rear yard setback with a minimum setback of five feet from any property line. Said structures shall not be located in a required front or side yard setback area.
  - 1. The setback shall be measured from the outside edge of the pool structure.
  - 2. Swimming pool motors and equipment shall be enclosed in a noise attenuating structure, as proscribed in Chapter 6.16, and shall not be located in a required interior side yard setback area.

**SECTION 3. AMENDMENT OF CODE:** Chapters 14.06, 14.08, 14.10, 14.12, 14.16, 14.18, 14.20 14.22 and 14.24 in Title 14 of the Los Altos Municipal Code are hereby amended to include a new section, inserted at the end of each chapter, as follows:

**Accessory Structures.**

As provided in Chapter 14.15 of this title.

**SECTION 4. AMENDMENT OF CODE:** Section 14.66.190 in Title 14 of the Los Altos Municipal Code is hereby amended as follows:

**14.66.190 – ~~Reserved Distances between structures.~~**

~~Where there is more than one structure on a site, the minimum distance between a main structure and an accessory structure which exceeds six feet in height shall be ten (10) feet; provided, however, if the open spaces surrounding the accessory structure conform with the regulations for the main structure in the district in which they are located, the accessory structure may be located nearer than ten (10) feet from the main structure. No minimum distance shall be required between main structures, between accessory structures, or between a main structure and an accessory structure which does not exceed six feet in height; provided, however, in no case shall there be less than a five-foot-wide unobstructed passageway adjacent to a main structure or an accessory structure. For the purposes of this section, the vertical dimension of the structure shall be measured from the elevation of the finished lot grade to the highest point of the structure.~~

**SECTION 5. AMENDMENT OF CODE:** Section 14.66.220 in Title 14 of the Los Altos Municipal Code is hereby amended as follows:

**14.66.220 - ~~Reserved Lot coverage—Exception for arbor (gazebo) and pergola (trellis) structures.~~**

~~Up to five percent of the lot area, but not more than seven hundred fifty (750) square feet (not including open eaves and/or overhangs up to four feet, may be occupied by arbor (gazebo) and pergola (trellis) structures, with such area not being counted as lot coverage in~~

~~residential zoning districts. However, no more than two hundred (200) square feet of the arbor (gazebo) structure(s) which are exempt from lot coverage on a lot may have a solid roof.~~

**SECTION 6. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 7. CEQA.** This ordinance is not subject to review under the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*) because the ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §15378. The ordinance amends Los Altos Municipal Code provisions pertaining to the site standards for size and placement of accessory structures on a residential property. It does not commit the City of Los Altos or any other party to any direct course of action, other than to review applications for compliance with the amended site standards as described herein, and will not result in any physical changes in and of itself. Moreover, to the extent the ordinance were determined to be subject to CEQA, it would be exempt from further review pursuant to the ‘common sense’ exemption (14 CCR §15061(b)(3)), as it can be seen with certainty that there is no possibility that the adoption of the ordinance may have a significant effect on the environment.

**SECTION 8. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 9. EFFECTIVE DATE.** This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on February 27, 2018 and was thereafter, at a regular meeting held on \_\_\_\_\_, 2018 passed and adopted by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Jean Mordo, MAYOR

Attest:

\_\_\_\_\_  
Jon Maginot, CMC, CITY CLERK

**MINUTES OF A REGULAR MEETING OF THE PLANNING COMMISSION OF THE  
CITY OF LOS ALTOS, HELD ON THURSDAY, FEBRUARY 1, 2018 BEGINNING AT  
7:00 P.M. AT LOS ALTOS CITY HALL, ONE NORTH SAN ANTONIO ROAD,  
LOS ALTOS, CALIFORNIA**

**ESTABLISH QUORUM**

PRESENT: Chair Meadows, Vice-Chair Bressack, Commissioners Enander, McTighe and Samek

ABSENT: Commissioners Bodner and Oreizy

STAFF: Community Development Director Biggs, Current Planning Services Manager Dahl and City Attorney Diaz

**PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

None.

**ITEMS FOR CONSIDERATION/ACTION**

**CONSENT CALENDAR**

**1. Planning and Transportation Commission Minutes**

Approve the minutes of the January 18, 2018 Regular Meeting.

Action: Upon motion by Vice-Chair Bressack, seconded by Commissioner McTighe, the Commission approved the minutes of the January 18, 2018 Regular Meeting, as amended by Commissioner Enander with the addition of language to agenda item #4 (400 Main Street) and attaching the letter she submitted. The motion was approved by the following vote: AYES: Bressack, Bodner, Enander, McTighe and Meadows; NOES: None; ABSTAIN: Samek; ABSENT: Bodner and Oreizy. (4-0-1)

Agenda item #2 was pulled from the consent calendar for discussion.

**DISCUSSION**

**2. 17-UP-03 – J. Morris – 400 Main Street**

Review of a Staff interpretation that through the use permit process, business types listed at Municipal Code Sections 14.48.030 and 14.48.040 may be considered in vacant, but previously occupied, ground floor building spaces because these would not displace a retail use. And, if there is concurrence with this interpretation, review of a conditional use permit that would allow a real estate office in a first-floor lease space of the commercial building located at 400 Main Street.  
*Project Manager: Biggs* This item was continued from the January 18, 2018 PC meeting.

Action: Upon motion by Vice-Chair Bressack, seconded by Chair Meadows, the Commission approved use permit application 17-UP-03 per the staff report and revised resolution of approval, with the following modification:

- Add “in the CRS zone” following ...along the First Street corridor...of the fourth resolution.

The motion was approved by the following vote: AYES: Bressack, Enander, McTighe, Meadows and Samek; NOES: None; ABSTAIN: None; ABSENT: Bodner and Oreizy. (5-0)

## **PUBLIC HEARING**

### **3. 17-CA-04 – City of Los Altos – Accessory Structure Regulations**

Zoning Code amendments to update the City's regulations for accessory structures in single-family zone districts. Zoning Code Chapters 14.06, 14.08, 14.10, 14.12 and 14.66 will be amended, and a new chapter, titled "Accessory Structures in R1 Districts," will be created. *Project Manager: Dahl* This item was continued from the January 18, 2018 PC meeting.

Current Planning Services Manager Dahl presented the staff report recommending approval of amendments to Title 14 of the Los Altos Municipal Code, pertaining to accessory structures in residential districts, to the City Council.

#### Public Comment

Resident Jeremy Macaluso stated his support for accessory dwelling units (ADU), would like to see more opportunities for ADU construction, and noted the City should incentivize good placement of ADUs.

#### Discussion

The Commission discussed the Accessory Structure Regulations in which Vice-Chair Bressack, Commissioners McTighe and Samek gave their support.

Commissioner Enander stated she could not support the Accessory Structure Regulations and the rules need to be more restrictive because these buildings can be converted to accessory dwelling units (ADU's) and there should be larger setbacks to protect neighbors.

Chair Meadows stated that the five-foot setback is already strict and it should keep a two-and-a-half-foot setback. She added there is no need to incorporate rules that will hinder property owners unnecessarily.

Vice-Chair Bressack noted that five feet is a reasonable setback and consistent with fire separation requirements.

Action: Upon motion by Vice-Chair Bressack, seconded by Commissioner McTighe, the Commission recommended adoption of code amendment 17-CA-04 to the City Council, subject to the following modification to the draft ordinance:

- Change daylight plane slope from 4:10 to 5:12.

The motion was approved by the following vote: AYES: Bressack, McTighe, Meadows, and Samek; NOES: Enander; ABSTAIN: None; ABSENT: Bodner and Oreizy. (4-1)

## **COMMISSIONERS' REPORTS AND COMMENTS**

Commissioner McTighe reported that there were no items of interest to the Commission at the December 12, 2017 City Council meeting he attended. He also asked about the League of California Cities Planning Commissioners Academy and requested that information about this conference be provided to the Commissioners.

Commissioner Enander reported on a meeting she had with Commissioner Bodner regarding City-Wide parking.

## **POTENTIAL FUTURE AGENDA ITEMS**

Since Vice-Chair Bressack, Commissioners McTighe and Samek noted they will all be absent for the February 15, 2018 Planning Commission meeting, there was a consensus to continue the City-Wide parking discussion to the first meeting in March given the importance of the topic and need for full Commission participation.

## **ADJOURNMENT**

Chair Meadows adjourned the meeting at 7:55 P.M.

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Jon Biggs  
Community Development Director

DRAFT



## PLANNING COMMISSION AGENDA REPORT SUMMARY

**Meeting Date:** February 1, 2018

**Subject:** 17-CA-04 – Accessory Structure Code Amendments

**Prepared by:** Zachary Dahl, Planning Services Manager

**Attachments:**

- A. Draft Zoning Code Amendment Ordinance
- B. Planning Commission Meeting Minutes, November 16, 2017
- C. Planning Commission Agenda Report, November 16, 2017
- D. Draft Accessory Dwelling Unit Ordinance

**Initiated by:**

City Council

**Environmental Review:**

This Code Amendment is exempt from environmental review pursuant to Section 15060(c)(2) of the California Environmental Quality Act Guidelines, as amended.

**Summary:**

The proposed amendments to the Zoning Code, Title 14 of the Los Altos Municipal Code, relate to updated regulations for the height, size and placement of accessory structures in residential zoning districts. Specifically, the proposed amendments would:

- Create a new chapter in the Zoning Code, titled “Accessory Structures in R Districts,” to consolidate all the individual accessory structure regulations located in various sections of the Zoning Code;
- Increase the minimum setback for accessory structures in a rear yard setback area from 2.5 feet to five feet;
- Require accessory structures to meet a daylight plane on both the side and rear property lines; and
- Establish a maximum lot coverage for accessory structures in the rear yard setback area.

A draft ordinance containing the proposed zoning code amendments is included as Attachment A.

**Background**

On November 16, 2017, the Planning Commission held a public hearing to consider amendments to the City’s accessory structure regulations. Following public comment and commissioner discussion, the Commission voted unanimously to continue the item to December 7, 2017 with a request for additional clarification from the City Attorney. Specifically, the Commission had questions about how the updated accessory structure regulations might influence the pending accessory dwelling unit



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(ADU) ordinance and how the City’s nonconforming regulations would be applied to existing structures made nonconforming by the updated regulations. This item was subsequently continued without discussion to the February 1, 2018 meeting to allow for staff and the City Attorney to provide responses to the Commission’s questions. The draft meeting minutes and agenda report from the November 17, 2017 meeting are included as Attachments B and C.

### **Discussion/Analysis**

In response to the Commission’s legal questions regarding the updated accessory structure regulations, staff worked with the City Attorney to provide responses to four overarching questions. These questions, along with responses, are as follows:

1. *Question:* How do accessory structure regulations interact with accessory dwelling unit (ADU) regulations – can the City amend the existing accessory structure regulations to be more restrictive, such as setback, size and height, without violating State law? Since an accessory structure could be converted into an ADU, does the City lose its ability to more tightly regulate the site standards for accessory structures?

*Answer:* Cities generally have substantial local land use authority as an exercise of their inherent police power. This power authorizes cities to regulate land uses in ways reasonably related to the public welfare, so long as the regulation in question is not in conflict with any state law. Currently, there are no state laws that would hinder the City from regulating accessory structures. Rather, the City retains its full authority to adopt regulations for accessory structures. Just because a structure could later be *converted* to an accessory dwelling unit – the regulation of which would be subject to state laws - does not strip the City of its power to regulate it initially as an accessory structure.

2. *Question:* Can the ADU regulations include a provision that limits conversion of accessory structures to ADU’s to only those permitted and constructed before the adoption of the ADU regulations? Is this permitted by State law, or does State law allow for the conversion of any accessory structure to an ADU no matter when constructed and no matter what the non-conformity?

*Answer:* No, we cannot limit conversion of accessory structures to ADU’s to only those accessory structures permitted and constructed before the adoption of these new ADU regulations. The statute does appear, however, to include some grounds upon which a ministerial conversion request could be denied:

- If the request is for conversion of an accessory structure on a lot that is not zoned for single-family use (i.e. multi-family zones)
- If the unit is not proposed to be contained within the existing space of an single-family residence or accessory structure (i.e. it involves an addition or a new structure) .
- The accessory structure is on a separate lot than the existing primary dwelling.





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- If the structure did not meet local building code requirements applicable to detached dwellings.
  - If the accessory structure did not offer side and rear setbacks that were “sufficient for fire safety.”
  - Failure to provide fire sprinklers if they are required for the primary residence.
  - Failure to meet owner occupancy requirements, if any.
3. *Question:* What is the impact of the non-conforming regulations on existing accessory structures – if these new regulations are adopted, what can a property owner do with their existing accessory structure if the new rules make them non-conforming? Can there be additions to it? Can it be repaired or up-graded? How is the 50% threshold applied? If the structure is non-conforming, and property owner seeks to convert to an ADU, which most likely will trigger substantial upgrades to the structure to meet building code requirements, can they complete these upgrades or does the fact that the structure is non-conforming prevent that?

*Answer:* If the structure meets all of the requirements for ADUs in § 65852.2, it doesn't matter if it's nonconforming for our accessory structure ordinance. In other words, we still have to ministerially approve the conversion.

4. *Question:* Is enacting an ordinance with significantly greater restrictions on accessory structures inimical to the intent of the state law, which discourages downzoning?

*Answer:* Accessory structures are not, in and of themselves, intended to be dwelling units. The state's regulation of density issues to discourage downzoning does not apply to our accessory structure regulations.

To further assist the Commission in understanding how the updated accessory structure regulations will relate to the pending ADU ordinance, a copy of the draft ordinance is included as Attachment D.

With regard to the City's nonconforming regulations, Section 14.66.060 of the Zoning Code contains the regulations that would be applied to an existing accessory structure that becomes nonconforming if the updated regulations are adopted. This Code section reads as follows:

***14.66.060 - Nonconforming structures—Repairs, alterations, and additions.***

- A. *No nonconforming structure shall be moved, altered, or enlarged unless required by law or unless the moving, alteration, or enlargement will result in the elimination of the structure's nonconformity, except that such a residential structure may be altered or enlarged if such change does not increase the nonconformity. If the nonconforming portion of the structure is removed, it shall no longer retain its nonconforming status and shall only be replaced in full conformity with the provisions of this chapter.*
- B. *Routine maintenance and repairs may be performed on a nonconforming structure. Maintenance shall be only to the extent determined by the building and planning department.*



**Subject:** 17-CA-04 – Accessory Structure Code Amendments

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Overall, an existing nonconforming accessory structure has a legal right to remain, be maintained and even expanded, if it is done in a way that meets the current regulations. However, as specified in each of the City’s single-family Zoning districts, if a structure has an existing nonconforming setback and 50-percent or more of the floor area of that structure is voluntarily being eliminated or replaced, the entire structure shall be brought into conformance with current setback requirements.

**Staff Recommendation:**

Recommend approval of amendments to Title 14 of the Los Altos Municipal Code, pertaining to accessory structures in residential districts, to the City Council.

## ORDINANCE NO. 2018-\_\_\_

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING TITLE 14 - ZONING OF THE LOS ALTOS MUNICIPAL CODE PERTAINING TO ACCESSORY STRUCTURE REGULATIONS IN RESIDENTIAL DISTRICTS**

**WHEREAS**, the City of Los Altos initiated an application (17-CA-04) to amend Title 14 of the Los Altos Municipal Code pertaining to the site standards for accessory structures in residential zoning districts, referred herein as the “CA”; and

**WHEREAS**, the amendments are in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City because they clarify and improve the site standards for detached accessory structures in residential districts to ensure the structures are not excessive in size and height, and have an appropriate relationship to adjacent properties while also providing property owners opportunity and flexibility to develop and enjoy the use of an accessory structure if desired; and

**WHEREAS**, the amendments are in conformance with the City of Los Altos General Plan because they will protect the privacy of neighbors and minimize the appearance of bulk for new accessory structures, and

**WHEREAS**, required public notices and public hearings were duly given and duly held in accordance with the applicable provisions of the California Government Code and Chapter 14.86 of the Los Altos Municipal Code; and

**WHEREAS**, the CA was processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; and

**WHEREAS**, the Planning Commission held duly noticed public hearings on the CA on November 16, 2017 and February 1, 2018; and

**WHEREAS**, the City Council held a duly noticed public hearing on the CA on \_\_\_\_; and

**WHEREAS**, the location and custodian of the documents or other materials which constitute the record of proceedings upon the City Council’s decision are based in the Office of the City Clerk; and

**WHEREAS**, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

**NOW THEREFORE**, the City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1. AMENDMENT OF CODE:** Title 14 of the Los Altos Municipal Code is hereby amended to include a new chapter as follows:

**CHAPTER 14.15 – ACCESSORY STRUCTURES IN R DISTRICTS**

**14.15.010 - Purpose**

The purpose of this Chapter is to provide site standards for the placement of detached accessory structures in all R (residential) districts. Both enclosed and unenclosed accessory structures, as defined in Chapter 14.02, are subject to the regulations contained herein.

**15.15.020 - Size, Height and Placement**

- A. Accessory structures may not be located in a required front yard setback area, with the exception of a single arbor-style entry element as provided in Chapter 14.72.
- B. Accessory structures may be located on other areas of a property as outlined in Table 1:

<u>Location</u>	<u>Maximum Size</u>	<u>Max. Height</u>	<u>Minimum Setback</u>
<u>Required side yard setback area (interior and exterior)</u>	<u>120 square feet</u>	<u>6 feet</u>	<u>None</u>
<u>Required rear yard setback area</u>	<u>800 square feet</u>	<u>12 feet</u>	<u>0 feet when under 6 feet in height</u>
			<u>5 feet when between 6-12 feet in height</u>
			<u>2.5 feet for an eave overhang, or similar projection, when over 6 feet in height</u>
<u>Main structure's building envelope (meets all required setbacks)</u>	<u>No size limit</u>	<u>12 feet</u>	<u>None</u>

- 1. When an accessory structure is located in a side yard setback area, it shall be screened from off-site view with solid fencing which is not lower in height than the accessory structure and which is constructed in conformance with the provisions of Chapter 14.72 of this title.
- 2. When an accessory structure is located in the main structure's building envelope, the height limit may be extended up to eighteen (18) feet if the additional height is necessary to establish architectural compatibility with the main structure.

**14.15.030 - Rear Yard Coverage**

In addition to compliance with the maximum allowable coverage and floor area ratio as provided by the subject zone district, the maximum coverage within the required rear yard setback area for all accessory structures, or portions thereof, that exceed six feet in height shall be thirty-five (35) percent of the total rear yard setback area.

**14.15.040 - Daylight Plane**

No portion of an accessory structure shall extend above or beyond a daylight plane as follows:

- A. The daylight plane starts at a height of six feet and proceeds inward at a 4:10 slope to a distance of ten (10) feet from side and rear the property lines;
- B. All appurtenances, including chimneys, vents and antennas, shall be within the daylight plane;
- C. The daylight plane is not applied to a side or rear property line when it abuts a public alley or public street.

**14.15.050 - Distance Between Structures**

- A. When an accessory structure is located in a required side yard setback, a minimum clearance of five feet is required. The clearance may be provided between the accessory structure and the main structure, or between the accessory structure and the property line.
- B. When an accessory structure exceeds six feet in height and is located in a required rear yard setback, a minimum clearance of ten (10) feet is required between the accessory structure and the main structure, and a minimum clearance of five feet is required between the accessory structures.
- C. For the purposes of this section, clearance is measured from outside edge of wall of each structure.

**14.15.060 – Coverage Exception for Open Accessory Structures.**

- A. Up to five percent of the lot area, but not more than five hundred (500) square feet, may be occupied by a detached accessory structure, such as an arbor (gazebo) or pergola (trellis) structure, that is open on all sides, with such area not being counted as lot coverage in residential zoning districts.
- B. No more than two hundred (200) square feet of an open accessory structure which is exempt from lot coverage, as provided in subsection (A) above, may have a solid roof.
- C. Accessory structures allowed by this section are subject to the rear yard coverage limitation as proscribed in Section 14.15.030.

**SECTION 2. AMENDMENT OF CODE:** Sections 14.06.120, 14.08.120, 14.10.120 and 14.12.120 in Title 14 of the Los Altos Municipal Code are hereby amended as follows:

**Accessory structures, ~~o~~Outdoor kitchens, barbeques, fireplaces and swimming pools.**

- A. ~~Accessory structures that are no more than six feet in height may be located in interior and exterior side and rear yard setbacks subject to the following provisions:~~
  - 2. ~~The maximum width of the accessory structure shall be five feet.~~
  - 3. ~~The maximum length of the accessory structure shall be sixteen (16) feet.~~
  - 4. ~~The accessory structure shall be screened from off-site view with solid fencing which is not lower in height than the accessory structure and which is constructed in conformance with the provisions of Chapter 14.72 of this title.~~
  - 5. ~~In no case shall there be less than a five-foot clearance between either the accessory structure and the main structure or the accessory structure and the property line.~~
- B. ~~Accessory structures that are more than six feet in height may be located in the required rear yard setback area or in the main structure's building envelope, subject to the following provisions:~~

- ~~1. Accessory structures shall have a minimum setback of two and one-half feet from the side property line and a minimum setback from the rear property line as follows:
    - ~~i. Two and one-half feet when the structure is under eight feet in height;~~
    - ~~ii. Five feet when the structure is between eight and ten (10) feet in height;~~
    - ~~iii. Seven and one-half feet when the structure is between ten (10) and twelve (12) feet in height; and~~
    - ~~iv. Two and one-half feet when the rear property line abuts an alley.~~~~
  - ~~2. No portion of any accessory structure shall project above a daylight plane, beginning at a height of six feet at the side property line and increasing at a slope of four feet for each ten (10) feet of distance from the side property line to a distance of ten (10) feet from the side property line.~~
  - ~~3. The maximum allowable height for accessory structures shall be twelve (12) feet.~~
  - ~~4. The maximum allowable size for each accessory structure located in the required rear yard setback area shall be eight hundred (800) square feet of gross floor area.~~
  - ~~5. Notwithstanding the provisions of Section 14.66.220 of this title, no portion of an accessory structure, including but not limited to roof eaves, chimneys and vents, shall project into any required setback or daylight plane as outlined in this subsection B.~~
  - ~~6. The architectural and site review committee may approve an accessory structure located entirely within the main structure's building envelope to extend up to eighteen (18) feet in height if the committee finds and determines that the additional height is necessary in order to establish architectural compatibility with the main structure.~~
- ~~C. Outdoor barbeques, fireplaces, sinks and similar structures located within the required rear yard setback shall be set back a minimum of five feet from any property line. Said structures shall not be located in the required front or side yard setback areas.~~
- ~~D. Swimming pools, hot tubs, and spas located within the required rear yard setback shall be set back a minimum of five feet from any property line. The setback shall be measured from the outside edge of the pool structure. Said structures shall not be located in a required front or side yard setback area.~~
- ~~E. Accessory structures containing swimming pool motors and equipment shall not be located in a required interior side yard setback area.~~
- A. Outdoor kitchens, barbeques, fireplaces, and similar structures shall be allowed in the main structure's building envelope, and in the required rear yard setback with a minimum setback of five feet from any property line. Said structures shall not be located in the required front or side yard setback areas.
- B. Swimming pools, hot tubs, and spas shall be allowed within the main structure's building envelope, and the required rear yard setback with a minimum setback of five feet from any property line. Said structures shall not be located in a required front or side yard setback area.
1. The setback shall be measured from the outside edge of the pool structure.

2. Swimming pool motors and equipment shall be enclosed in a noise attenuating structure, as proscribed in Chapter 6.16, and shall not be located in a required interior side yard setback area.

**SECTION 3. AMENDMENT OF CODE:** Chapters 14.06, 14.08, 14.10, 14.12, 14.16, 14.18, 14.20 14.22 and 14.24 in Title 14 of the Los Altos Municipal Code are hereby amended to include a new section, inserted at the end of each chapter, as follows:

**Accessory Structures.**

As provided in Chapter 14.15 of this title.

**SECTION 4. AMENDMENT OF CODE:** Section 14.66.190 in Title 14 of the Los Altos Municipal Code is hereby amended as follows:

**14.66.190 – ~~Reserved Distances between structures.~~**

~~Where there is more than one structure on a site, the minimum distance between a main structure and an accessory structure which exceeds six feet in height shall be ten (10) feet; provided, however, if the open spaces surrounding the accessory structure conform with the regulations for the main structure in the district in which they are located, the accessory structure may be located nearer than ten (10) feet from the main structure. No minimum distance shall be required between main structures, between accessory structures, or between a main structure and an accessory structure which does not exceed six feet in height; provided, however, in no case shall there be less than a five-foot-wide unobstructed passageway adjacent to a main structure or an accessory structure. For the purposes of this section, the vertical dimension of the structure shall be measured from the elevation of the finished lot grade to the highest point of the structure.~~

**SECTION 5. AMENDMENT OF CODE:** Section 14.66.220 in Title 14 of the Los Altos Municipal Code is hereby amended as follows:

**14.66.220 - ~~Reserved Lot coverage Exception for arbor (gazebo) and pergola (trellis) structures.~~**

~~Up to five percent of the lot area, but not more than seven hundred fifty (750) square feet (not including open eaves and/or overhangs up to four feet, may be occupied by arbor (gazebo) and pergola (trellis) structures, with such area not being counted as lot coverage in residential zoning districts. However, no more than two hundred (200) square feet of the arbor (gazebo) structure(s) which are exempt from lot coverage on a lot may have a solid roof.~~

**SECTION 6. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 7. CEQA.** This ordinance is not subject to review under the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*) because the ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment,

per 14 CCR §15378. The ordinance amends Los Altos Municipal Code provisions pertaining to the site standards for size and placement of accessory structures on a residential property. It does not commit the City of Los Altos or any other party to any direct course of action, other than to review applications for compliance with the amended site standards as described herein, and will not result in any physical changes in and of itself. Moreover, to the extent the ordinance were determined to be subject to CEQA, it would be exempt from further review pursuant to the ‘common sense’ exemption (14 CCR §15061(b)(3)), as it can be seen with certainty that there is no possibility that the adoption of the ordinance may have a significant effect on the environment.

**SECTION 8. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 9. EFFECTIVE DATE.** This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on \_\_\_\_\_, 2018 and was thereafter, at a regular meeting held on \_\_\_\_\_, 2018 passed and adopted by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mary Prochnow, MAYOR

Attest:

\_\_\_\_\_  
Jon Maginot, CMC, CITY CLERK



# ATTACHMENT B

## MINUTES OF A REGULAR MEETING OF THE PLANNING COMMISSION OF THE CITY OF LOS ALTOS, HELD ON THURSDAY, NOVEMBER 16, 2017 BEGINNING AT 7:00 P.M. AT LOS ALTOS CITY HALL, ONE NORTH SAN ANTONIO ROAD, LOS ALTOS, CALIFORNIA

### ESTABLISH QUORUM

PRESENT: Chair Meadows, Vice-Chair Bressack, Commissioners Enander, McTighe and Oreizy

ABSENT: Commissioners Bodner and Samek

STAFF: Community Development Director Biggs and Current Planning Services Manager Dahl

### PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

### ITEMS FOR CONSIDERATION/ACTION

#### CONSENT CALENDAR

1. **Planning and Transportation Commission Minutes**  
Approve the minutes of the November 2, 2017 Regular Meeting.

Action: Upon motion by Commissioner McTighe, seconded by Vice-Chair Bressack, the Commission approved the minutes of the November 2, 2017 Regular Meeting as amended by Commissioner Enander and Chair Meadows. The motion was approved by the following vote: AYES: Bressack, Enander, McTighe, Meadows and Oreizy; NOES: None; ABSTAIN: None; ABSENT: Commissioners Bodner and Samek. (5-0)

### PUBLIC HEARING

2. **17-CA-04 – City of Los Altos – Accessory Structure Regulations**  
Zoning Code amendments to update the City's regulations for accessory structures in single-family zone districts. Zoning Code Chapters 14.06, 14.08, 14.10, 14.12 and 14.66 will be amended, and a new chapter, titled "Accessory Structures in R1 Districts," will be created.  
*Project Planner: Dahl*

Current Planning Services Manager Dahl presented the staff report and answered Commissioner questions.

#### Public Comment

Los Altos resident Jeremy Macaluso stated that converting a structure to an Accessory Dwelling Unit (ADU) close to the property line is not a major issue and the City of Los Altos should look at ways to increase density.

The Commission discussed the proposed Accessory Structure Regulations and provided the following input:

- Commissioner Oreizy:
  - Likes the daylight plane for the rear and side yards;
  - Five feet is inappropriate for landscaping and the daylight plane will take care of the setback questions;
  - Should reconsider how non-conforming structures are managed/maintained; and
  - Would like to review the non-conforming regulations and see how they weave into the proposed accessory structure rules.
  
- Vice-Chair Bressack:
  - A five-foot setback area is too much, nothing will grow in these shaded spaces and it will be hard to maintain;
  - A two-foot setback is acceptable, but anything more would take away what could be usable space for the property owner;
  - The daylight planes will control height;
  - Would like to review the Accessory Structure Regulations with the Accessory Dwelling Units Regulations; and
  - The City should encourage Accessory Dwelling Units (ADU).
  
- Commissioner Enander:
  - Lots of concerns;
  - Setback areas are intended to provide open space;
  - Should not be putting ADUs in the rear yard;
  - Should ensure structures are maintained;
  - An eight-foot tall structure with a five-foot setback is too close;
  - Keep rear yard spaces open;
  - Structures that can be lived in should not be within a required setback;
  - ADUs should be in the main building envelope; and
  - Would like to have the City Attorney at the next meeting so they can ask questions regarding these new rules.
  
- Commissioner McTighe:
  - Likes the consolidation of the Accessory Structure and Accessory Dwelling Units regulations.
  
- Chair Meadows:
  - The daylight plane addresses the setback issue, so there is no need to increase the setback to five feet; and
  - Should try and create opportunities for providing housing, not limit them.

Action: Upon motion by Vice-Chair Bressack, seconded by Commissioner Enander, the Commission continued the Accessory Structure Regulations to the December 7, 2017 Planning Commission meeting to allow the City Attorney to be present at the meeting. The motion was approved by the following vote: AYES: Bressack, Enander, McTighe, Meadows and Oreizy; NOES: None; ABSTAIN: None; ABSENT: Commissioners Bodner and Samek. (5-0)

## **COMMISSIONERS' REPORTS AND COMMENTS**

Chair Meadows reported on the Joint City Council/Planning Commission meeting on November 7, 2017. She also attended the Silicon Valley Coalition for Affordable Housing panel discussion. Commissioner Enander said she will attend the November 28, 2017 City Council meeting, asked for clarification on how Commissioners are notified that packets are ready for pick-up and about their Los

Altos email, and stated her concern with going to an electronic packet in light of recent decisions concerning the Public Records Act.

### **POTENTIAL FUTURE AGENDA ITEMS**

None.

### **ADJOURNMENT**

Chair Meadows adjourned the meeting at 8:32 P.M.

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Jon Biggs  
Community Development Director

# ATTACHMENT C



DATE: November 16, 2017

AGENDA ITEM # 2

**TO:** Planning Commission  
**FROM:** Zachary Dahl, Planning Services Manager – Current Planning  
**SUBJECT:** 17-CA-04 – Accessory Structure Zoning Code Amendments

## RECOMMENDATION:

Recommend approval of amendments to Title 14 of the Los Altos Municipal Code, pertaining to accessory structures in residential districts, to the City Council subject to the listed findings

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## PROJECT DESCRIPTION

The proposed amendments to the Zoning Code, Title 14 of the Los Altos Municipal Code, relate to updated regulations for the height, size and placement of accessory structures in residential zoning districts. Specifically, the proposed amendments would:

- Create a new chapter in the Zoning Code, titled “Accessory Structures in R Districts,” to consolidate all the individual accessory structure regulations located in various sections of the Zoning Code;
- Increase the minimum setback for accessory structures in a rear yard setback area from 2.5 feet to five feet;
- Require accessory structures to meet a daylight plane on both the side and rear property lines; and
- Establish a maximum lot coverage for accessory structures in the rear yard setback area.

A draft ordinance containing the proposed zoning code amendments is included as Attachment A.

## BACKGROUND

On May 9, 2017 and May 23, 2017, the City Council held public hearings to consider adoption of an updated Accessory Dwelling Unit (ADU) Ordinance to comply with State legislation. During the meetings, questions were raised about the City’s height and setback requirements for accessory structures. Under the proposed ADU regulations, and in compliance with State law, an existing accessory structure can be converted into an ADU even if it does not meet the required development standards for a new ADU. Due to concerns about the proposed ADU regulations not being in alignment with the accessory structure regulations, the Council voted to continue consideration of the proposed ADU regulations and requested additional information about the City’s existing accessory structure regulations.

On June 27, 2017, the City Council received a report from staff on the City’s existing accessory structure requirements. Following public comment and discussion, the Council directed staff to

prepare an ordinance amending the Zoning Code to increase setbacks for accessory structures and to clean up conflicting or confusing language in the Municipal Code. A copy of this report and the meeting minutes are attached for reference (Attachments B and C).

## **DISCUSSION**

### **New Zoning Code Chapter**

The Zoning Code currently contains accessory structure regulations in a number of different locations with provisions that can be confusing and challenging to interpret. Therefore, to comprehensively address City Council's direction, staff is proposing that all accessory structure regulations for residential zone districts be simplified and consolidated into one new chapter in the Zoning Code. This chapter, titled "Accessory Structures in R Districts," would be the primary source for site standards and regulations that pertain to accessory structures. The proposed new chapter will contain the following sections:

- 14.15.010 - Purpose Statement.
- 14.15.020 - Accessory Structure Size, Height and Placement.
- 14.15.030 - Rear Yard Coverage.
- 14.15.040 - Daylight Plane.
- 14.15.050 - Distance Between Structures.
- 14.15.060 - Coverage Exception for Open Accessory Structures.

Currently, all of the single-family districts (R1-10, R1-H, R1-20 and R1-40) contain duplicate accessory structure regulations and the multi-family districts (R3-4.5, R3-5, R3-3, R3-1.8 and R3-1) contain no accessory structure regulations. In addition, The General Standards and Exceptions Chapter (14.66) contains two sections that are applicable to accessory structures – Distance Between Structures and Lot Coverage Exception for Arbor (Gazebo) and Pergola (Trellis) Structures. All of these regulations will now be located in Chapter 14.15, with the other sections removed.

Many of the accessory structure requirements in this chapter will remain the same as the existing Code, but the language has been updated to simplify the wording and improve legibility. There are hundreds of accessory structures located on residential properties around the City that have been permitted based on the existing regulations and the impacts on these existing, and currently conforming, structures is an important consideration when developing changes to the Zoning Code. However, it is also important for a Zoning Code to grow and adapt to address the changing needs of the City's residents. These two considerations were the basis for the proposed changes to the City's accessory structure regulations that are outlined below in response to the City's Council's direction.

#### **14.15.020 - Accessory Structure Size, Height and Placement**

To make it easier to understand the size, height and placement requirements for accessory structures, a new table (below) will replace the existing text in the Code. All of the existing height requirements are proposed to remain the same; however, the minimum setback for accessory structures located in a rear yard setback area is proposed to increase from 2.5 feet to five feet. This increased setback, along

with a new rear yard lot coverage limitation and expanded use of the daylight plane, are intended to move taller accessory structures away from adjacent properties while still providing homeowners with flexibility to place shorter accessory structures closer to a property line in order to maintain a larger useable rear yard space.

The new table that outlines the size, height and placement of accessory structures is as follows:

Location	Maximum Size	Max. Height	Minimum Setback
Required side yard setback area (interior and exterior)	120 square feet	6 feet	None
Required rear yard setback area	800 square feet	12 feet	0 feet when under 6 feet in height
			5 feet when between 6-12 feet in height
			2.5 feet for an eave overhang, or similar projection, when over 6 feet in height
Main structure's building envelope (meets all required setbacks)	No size limit	12 feet	None

With regard to accessory structures in required side yard setback areas, the current Code limits them to five feet by 16 feet (80 square feet) and a maximum height of six feet. The proposed changes would maintain the height limit of six feet, but increase the size limit to 120 square feet, which is consistent with the Building Code threshold for when a building permit is required. Since these structures are limited to six feet in height and required to be screened from view by a fence of equal height, this increase in size should not have a negative impact on an adjacent property but would provide homeowners with greater flexibility to use their side yard spaces.

The other change from the existing regulations in this section is related to the provision that allows an accessory structure located in the main structure's building envelope to have a height of up to 18 feet if the additional height is necessary to establish architectural compatibility with the main structure. Currently this provision requires approval by the Design Review Commission at a public meeting. As proposed, this approval could be granted through the administrative design review process. This change is consistent with the City's current design review process, which allows one-story houses under 20 feet in height that meets all setbacks to be reviewed and approved administratively.

All other provisions in this section are existing regulations in the Zoning Code. The full version of this section is included in Attachment A.

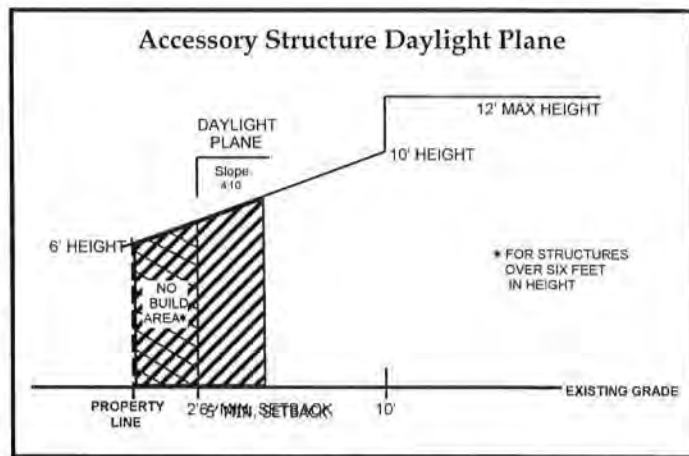


### 14.15.030 – Rear Yard Coverage

This section contains a new provision that is intended to limit the overall size of structures, or portions of structures, placed within a required rear yard setback area. Since one of the primary functions of a rear yard setback area is to provide open space and a separation from adjacent properties, this provision would ensure that the allowable size of accessory structures is proportional to the overall size of the rear yard space. The 35-percent lot coverage threshold is consistent with the R1-10 District’s lot coverage requirement and would ensure that a rear yard space does not become overcrowded with accessory structures.

### 14.15.040 Daylight Plane

Currently, all accessory structures located in a rear yard setback are required to comply with a daylight plane that is measured from both side property lines and a stepped setback, based on the structure’s overall height, from the rear property line. An exhibit that illustrates the daylight plane is provided, and additional details about the two existing requirements can be found in the City Council report in Attachment C. To simplify the regulations, the stepped setback from the rear property line has been eliminated and the daylight plane is now applied to both side and rear property lines. This amendment will simplify the Code and allow flexibility for placement of shorter accessory structures while ensuring that taller accessory structures have larger setbacks from all property lines.



### 14.15.050 - Distance Between Structures

This section, which is only applicable to accessory structures, is currently located in the General Standards and Exceptions Chapter (14.66). The provisions contained in this section will be retained, but be located in the Accessory Structures chapter with language that has been cleaned up for improved legible.

### 14.15.060 – Coverage Exception for Open Accessory Structures.

This section, which provides a lot coverage exception for open accessory structures (pergolas and gazebos) when a property’s required lot coverage has been maxed out, is currently located in the General Standards and Exceptions Chapter (14.66). Since it is an exception that is related to accessory structures, it is has been moved into the Accessory Structures chapter. In this case, staff is recommending that the exception be retained, but that the maximum allowable size for open accessory structures that are exempt from the lot coverage requirement be reduced from 750 square feet to 500 square feet. In addition, a provision has been added that requires structures allowed by this exception to still adhere to the new rear yard coverage limitation.

## **Accessory Structures in Multi-Family Districts**

Currently, the Zoning Code does not explicitly allow or prohibit accessory structures in multiple-family (R3) districts. If a project in an R3 district needs a covered trash enclosure to meet City and State stormwater runoff requirements or a property owner is seeking approval for a small garden shed in their private yard space, then a variance is required. However, these types of accessory structures are reasonable and appropriate use on a property in an R3 district, and there are many existing accessory structures on R3 properties that function well in this type of residential setting. Thus, staff has crafted the new Accessory Structures chapter to be applicable to both single-family and multiple-family zoning districts.

## **ENVIRONMENTAL REVIEW**

Pursuant to Article 5 of the California Environmental Quality Act (CEQA) Guidelines, zoning ordinance amendments are not subject to an environmental analysis if they do not result in a direct or reasonably foreseeable indirect physical change in the environment. Because the proposed amendments would not result in any change or intensity of use in any of the affected districts, staff finds that they would not result in a physical change to the environment, and therefore that they are not subject to the requirements of CEQA.

## **PUBLIC CONTACT**

A public hearing display ad was published in the *Town Crier* on November 1, 2017 for the November 16, 2017 Planning Commission hearing.

### Attachments:

- A. Draft Zoning Code Amendment Ordinance
- B. City Council Meeting Minutes, June 27, 2017
- C. City Council Agenda Report, June 27, 2017



## FINDINGS

### 17-CA-04 – Zoning Code Amendments

1. The Planning Commission finds in accordance with Section 15060(c)(2) of the California Environmental Quality Act Guidelines, as amended on January 1, 2017, that the following zoning ordinance amendments will not result in a direct or reasonably foreseeable indirect physical change in the environment and is therefore not subject to the requirements of the California Environmental Quality Act.
2. The Planning Commission finds in accordance with Chapter 14.86 of the Municipal Code that the following zoning ordinance amendment findings can be made:
  - a. The amendments are in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City because they clarify and improve the site standards for detached accessory structures in residential districts to ensure the structures are not excessive in size and height, and have an appropriate relationship to adjacent properties while also providing property owners opportunity and flexibility to develop and enjoy the use of an accessory structure if desired; and
  - b. The amendments are in conformance with the City of Los Altos General Plan because they will protect the privacy of neighbors and minimize the appearance of bulk for new accessory structures.

# ATTACHMENT A

ORDINANCE NO. 2017-\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
LOS ALTOS AMENDING TITLE 14 - ZONING OF THE LOS  
ALTOS MUNICIPAL CODE PERTAINING TO ACCESSORY  
STRUCTURE REGULATIONS IN RESIDENTIAL DISTRICTS**

**WHEREAS**, the City of Los Altos initiated an application (17-CA-04) to amend Title 14 of the Los Altos Municipal Code pertaining to the site standards for accessory structures in residential zoning districts, referred herein as the "CA"; and

**WHEREAS**, the amendments are in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City because they clarify and improve the site standards for detached accessory structures in residential districts to ensure the structures are not excessive in size and height, and have an appropriate relationship to adjacent properties while also providing property owners opportunity and flexibility to develop and enjoy the use of an accessory structure if desired; and

**WHEREAS**, the amendments are in conformance with the City of Los Altos General Plan because they will protect the privacy of neighbors and minimize the appearance of bulk for new accessory structures, and

**WHEREAS**, required public notices and public hearings were duly given and duly held in accordance with the applicable provisions of the California Government Code and Chapter 14.86 of the Los Altos Municipal Code; and

**WHEREAS**, the CA was processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; and

**WHEREAS**, the Planning Commission held duly noticed public hearings on the CA on November 16, 2017; and

**WHEREAS**, the City Council held a duly noticed public hearing on the CA on \_\_\_\_; and

**WHEREAS**, the location and custodian of the documents or other materials which constitute the record of proceedings upon the City Council's decision are based in the Office of the City Clerk; and

**WHEREAS**, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

**NOW THEREFORE**, the City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1. AMENDMENT OF CODE:** Title 14 of the Los Altos Municipal Code is hereby amended to include a new chapter as follows:

## CHAPTER 14.15 – ACCESSORY STRUCTURES IN R DISTRICTS

### 14.15.010 - Purpose

The purpose of this Chapter is to provide site standards for the placement of detached accessory structures in all R (residential) districts. Both enclosed and unenclosed accessory structures, as defined in Chapter 14.02, are subject to the regulations contained herein.

### 15.15.020 - Size, Height and Placement

- A. Accessory structures may not be located in a required front yard setback area, with the exception of a single arbor-style entry element as proscribed in Chapter 14.72.
- B. Accessory structures may be located on other areas of a property as outlined in Table 1:

<u>Location</u>	<u>Maximum Size</u>	<u>Max. Height</u>	<u>Minimum Setback</u>
<u>Required side yard setback area (interior and exterior)</u>	<u>120 square feet</u>	<u>6 feet</u>	<u>None</u>
<u>Required rear yard setback area</u>	<u>800 square feet</u>	<u>12 feet</u>	<u>0 feet when under 6 feet in height</u>
			<u>5 feet when between 6-12 feet in height</u>
			<u>2.5 feet for an eave overhang, or similar projection, when over 6 feet in height</u>
<u>Main structure's building envelope (meets all required setbacks)</u>	<u>No size limit</u>	<u>12 feet</u>	<u>None</u>

1. When an accessory structure is located in a side yard setback area, it shall be screened from off-site view with solid fencing which is not lower in height than the accessory structure and which is constructed in conformance with the provisions of Chapter 14.72 of this title.
2. When an accessory structure is located in the main structure's building envelope, the height limit may be extended up to eighteen (18) feet if the additional height is necessary to establish architectural compatibility with the main structure.

### 14.15.030 - Rear Yard Coverage

In addition to compliance with the maximum allowable coverage and floor area ratio as proscribed by the subject zone district, the maximum coverage within the required rear yard setback area for all accessory structures, or portions thereof, that exceed six feet in height shall be thirty-five (35) percent of the total rear yard setback area.

### 14.15.040 - Daylight Plane

No portion of an accessory structure shall extend above or beyond a daylight plane as follows:

- A. The daylight plane starts at a height of six feet and proceeds inward at a 4:10 slope to a distance of ten (10) feet from side and rear the property lines;
- B. All appurtenances, including chimneys, vents and antennas, shall be within the daylight plane;
- C. The daylight plane is not applied to a side or rear property line when it abuts a public alley.

**14.15.050 - Distance Between Structures**

- A. When an accessory structure is located in a required side yard setback, a minimum separation of five feet is required. The separation may be provided between the accessory structure and the main structure, or between the accessory structure and the property line.
- B. When an accessory structure exceeds six feet in height and is located in a required rear yard setback, a minimum separation of ten (10) feet is required between the accessory structure and the main structure, and a minimum separation of five feet is required between the accessory structures.
- C. For the purposes of this section, separation is measured from outside edge of wall of each structure.

**14.15.060 – Coverage Exception for Open Accessory Structures.**

- A. Up to five percent of the lot area, but not more than five hundred (500) square feet, may be occupied by a detached accessory structure, such as an arbor (gazebo) or pergola (trellis) structure, that is open on all sides, with such area not being counted as lot coverage in residential zoning districts.
- B. No more than two hundred (200) square feet of an accessory structure which is exempt from lot coverage may have a solid roof.
- C. Accessory structures allowed by this section are subject to the rear yard coverage limitation as proscribed in Section 14.15.030.

**SECTION 2. AMENDMENT OF CODE:** Sections 14.06.120, 14.08.120, 14.10.120 and 14.12.120 in Title 14 of the Los Altos Municipal Code are hereby amended as follows:

**Accessory structures, ~~o~~Outdoor kitchens, barbeques, fireplaces and swimming pools.**

- A. ~~Accessory structures that are no more than six feet in height may be located in interior and exterior side and rear yard setbacks subject to the following provisions:~~
  - 2. ~~The maximum width of the accessory structure shall be five feet.~~
  - 3. ~~The maximum length of the accessory structure shall be sixteen (16) feet.~~
  - 4. ~~The accessory structure shall be screened from off-site view with solid fencing which is not lower in height than the accessory structure and which is constructed in conformance with the provisions of Chapter 14.72 of this title.~~
  - 5. ~~In no case shall there be less than a five-foot clearance between either the accessory structure and the main structure or the accessory structure and the property line.~~

~~B. Accessory structures that are more than six feet in height may be located in the required rear yard setback area or in the main structure's building envelope, subject to the following provisions:~~

- ~~1. Accessory structures shall have a minimum setback of two and one-half feet from the side property line and a minimum setback from the rear property line as follows:
  - ~~i. Two and one-half feet when the structure is under eight feet in height;~~
  - ~~ii. Five feet when the structure is between eight and ten (10) feet in height;~~
  - ~~iii. Seven and one-half feet when the structure is between ten (10) and twelve (12) feet in height; and~~
  - ~~iv. Two and one-half feet when the rear property line abuts an alley.~~~~
- ~~2. No portion of any accessory structure shall project above a daylight plane, beginning at a height of six feet at the side property line and increasing at a slope of four feet for each ten (10) feet of distance from the side property line to a distance of ten (10) feet from the side property line.~~
- ~~3. The maximum allowable height for accessory structures shall be twelve (12) feet.~~
- ~~4. The maximum allowable size for each accessory structure located in the required rear yard setback area shall be eight hundred (800) square feet of gross floor area.~~
- ~~5. Notwithstanding the provisions of Section 14.66.220 of this title, no portion of an accessory structure, including but not limited to roof eaves, chimneys and vents, shall project into any required setback or daylight plane as outlined in this subsection B.~~
- ~~6. The architectural and site review committee may approve an accessory structure located entirely within the main structure's building envelope to extend up to eighteen (18) feet in height if the committee finds and determines that the additional height is necessary in order to establish architectural compatibility with the main structure.~~

~~C. Outdoor barbeques, fireplaces, sinks and similar structures located within the required rear yard setback shall be set back a minimum of five feet from any property line. Said structures shall not be located in the required front or side yard setback areas.~~

~~D. Swimming pools, hot tubs, and spas located within the required rear yard setback shall be set back a minimum of five feet from any property line. The setback shall be measured from the outside edge of the pool structure. Said structures shall not be located in a required front or side yard setback area.~~

~~E. Accessory structures containing swimming pool motors and equipment shall not be located in a required interior side yard setback area.~~

A. Outdoor kitchens, barbeques, fireplaces, and similar structures shall be allowed in the main structure's building envelope, and in the required rear yard setback with a minimum setback of five feet from any property line. Said structures shall not be located in the required front or side yard setback areas.

B. Swimming pools, hot tubs, and spas shall be allowed within the main structure's building envelope, and the required rear yard setback with a minimum setback of five feet from any property line. Said structures shall not be located in a required front or side yard setback area.



1. The setback shall be measured from the outside edge of the pool structure.
2. Swimming pool motors and equipment shall be enclosed in a noise attenuating structure, as proscribed in Chapter 6.16, and shall not be located in a required interior side yard setback area.

**SECTION 3. AMENDMENT OF CODE:** Chapters 14.06, 14.08, 14.10, 14.12, 14.16, 14.18, 14.20 14.22 and 14.24 in Title 14 of the Los Altos Municipal Code are hereby amended to include a new section, inserted at the end of each chapter, as follows:

**Accessory Structures.**

As provided in Chapter 14.15 of this title.

**SECTION 4. AMENDMENT OF CODE:** Section 14.66.190 in Title 14 of the Los Altos Municipal Code is hereby amended as follows:

**~~14.66.190 – Reserved Distances between structures.~~**

~~Where there is more than one structure on a site, the minimum distance between a main structure and an accessory structure which exceeds six feet in height shall be ten (10) feet; provided, however, if the open spaces surrounding the accessory structure conform with the regulations for the main structure in the district in which they are located, the accessory structure may be located nearer than ten (10) feet from the main structure. No minimum distance shall be required between main structures, between accessory structures, or between a main structure and an accessory structure which does not exceed six feet in height; provided, however, in no case shall there be less than a five-foot wide unobstructed passageway adjacent to a main structure or an accessory structure. For the purposes of this section, the vertical dimension of the structure shall be measured from the elevation of the finished lot grade to the highest point of the structure.~~

**SECTION 5. AMENDMENT OF CODE:** Section 14.66.220 in Title 14 of the Los Altos Municipal Code is hereby amended as follows:

**~~14.66.220 - Reserved Lot coverage—Exception for arbor (gazebo) and pergola (trellis) structures.~~**

~~Up to five percent of the lot area, but not more than seven hundred fifty (750) square feet (not including open eaves and/or overhangs up to four feet, may be occupied by arbor (gazebo) and pergola (trellis) structures, with such area not being counted as lot coverage in residential zoning districts. However, no more than two hundred (200) square feet of the arbor (gazebo) structure(s) which are exempt from lot coverage on a lot may have a solid roof.~~

**SECTION 6. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 7. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 8. EFFECTIVE DATE.** This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on \_\_\_\_\_, 2017 and was thereafter, at a regular meeting held on \_\_\_\_\_, 2017 passed and adopted by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mary Prochnow, MAYOR

Attest:

\_\_\_\_\_  
Jon Maginot, CMC, CITY CLERK

# ATTACHMENT B

City Council Minutes

June 27, 2017

Page 3 of 4

## PUBLIC HEARING

7. Fiscal Year 2017/18 Sewer Service Charges: Conduct a Hearing regarding the Report of Sewer Charges to be collected on the Fiscal Year 2017/18 Tax Roll; and adopt Resolution No. 2017-23 approving the Report of Sewer Service Charges for Fiscal Year 2017/18 and directing the Filing of Charges for Collection by the County Tax Collector

Associate Civil Engineer Fairman presented the report.

Mayor Prochnow opened the public hearing. There were no public comments. Mayor Prochnow closed the public hearing.

Action: Upon a motion by Vice Mayor Mordo, seconded by Councilmember Pepper, the Council unanimously adopted Resolution No. 2017-23 approving the Report of Sewer Service Charges for Fiscal Year 2017/18 and directing the Filing of Charges for Collection by the County Tax Collector.

## DISCUSSION ITEM

8. Fiscal Year 2018-19 Operating Budget and Fiscal Year 2018-22 Capital Improvement Plan: Adopt the FY 2018-19 Operating Budget and FY 2018-22 Capital Improvement Plan and accompanying Resolutions

Administrative Services Director Etman presented the report.

Action: Upon a motion by Councilmember Bruins, seconded by Vice Mayor Mordo, the Council unanimously adopted Resolution No. 2017-24, adopting Fiscal Year 18-19 Operating Budgets; adopted Resolution No. 2017-25, adopting the Fiscal Year 2018-2022 Five-Year Capital Improvement Program; adopted Resolution No. 2017-26 establishing the 2017/18 Transient Occupancy Tax; adopted Resolution No. 2017-27 establishing the 2017/18 Utility Users Tax; adopted Resolution No. 2017-28 establishing the 2017/18 Appropriations Limit; and adopted Resolution No. 2017-29 adopting the 2017/18 Full-Time Employee Salary Schedule.

*Mayor Prochnow recessed the meeting at 9:00 p.m. The meeting resumed at 9:12 p.m.*

## STUDY SESSION

9. Accessory structure standards: Receive the report on accessory structure standards and provide appropriate direction

Community Development Director Biggs presented the report.

### Public Comments

Los Altos residents Erika Boetius, Satish Ram and Sri Rajnam encouraged the City to clearly define the rules for accessory structures and to follow the Municipal Code.



Los Altos resident Teresa Morris encouraged the Council to consider existing accessory structures and to consider all what-if scenarios with regards to changes to the Municipal Code.

Los Altos resident Roberta Phillips encouraged the Council to increase the setback for accessory structure.

Los Altos resident Nancy Phillips encouraged the City to define the rules for non-conforming structures.

Direction: Councilmembers directed staff to prepare an ordinance amending the Municipal Code to increase setbacks for accessory structures and to clean up conflicting or confusing language in the Municipal Code.

### **COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS**

#### Council reports

Councilmember Lee Eng reported that she and Councilmember Bruins attended a meeting of the City/Cupertino Union School District Schools Issues Standing Committee on May 11, 2017, that she and Vice Mayor Mordo attended a meeting sponsored by Community Center Alliance on June 14, 2017 and that she held Open Office Hours on June 21, 2017.

Councilmember Bruins encouraged people to complete the Downtown Vision Questionnaire. She further reported on two potential transportation related tax measures. She also reported she attended a meeting of the Silicon Valley Clean Energy Board.

Mayor Prochnow reported she attended the following: meetings of the Hillview Community Center Project Task Force on June 15 and 22, 2017, the BATS, Hams and CERTS celebration on June 17, 2017, the grand opening of the Terraces on June 20, 2017, the Senior Program 40<sup>th</sup> year celebration on June 22, 2017, the Public Arts Commission on June 22, 2017 and the Los Altos Community Foundation Summer Solstice event on June 23, 2017.

### **ADJOURNMENT**

Mayor Prochnow adjourned the meeting at 10:10 p.m.

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Mary Prochnow, MAYOR

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Jon Maginot, CMC, CITY CLERK



STUDY SESSION

Agenda Item # 9

## AGENDA REPORT SUMMARY

**Meeting Date:** June 27, 2017

**Subject:** Accessory Structure Standards

**Prepared by:** Jon Biggs, Community Development Director

**Approved by:** Chris Jordan, City Manager

**Attachment(s):**

1. Municipal Code Section 14.06.120 – Accessory Structures
2. Accessory Structure Placement Diagram
3. Accessory Structure Placement Within Rear Yard Diagram

**Initiated by:**

City Council

**Fiscal Impact:**

Undetermined

**Environmental Review:**

Not applicable

**Policy Question(s) for Council Consideration:**

- Are current site development standards for accessory structures appropriate?

**Summary:**

- Following the City Council's review of the draft accessory dwelling unit regulations, which allow the conversion of existing accessory structures to accessory dwelling units, it was requested that an overview of the current accessory structure regulations be provided.
- This report, and the presentation at the City Council meeting, will provide that overview. Council may determine that adjustments to the current accessory structure regulations are needed to minimize the potential for impacts to adjoining properties.

**Staff Recommendation:**

Receive the report on accessory structure standards and provide appropriate direction.



**Subject:** Accessory Structure Standards

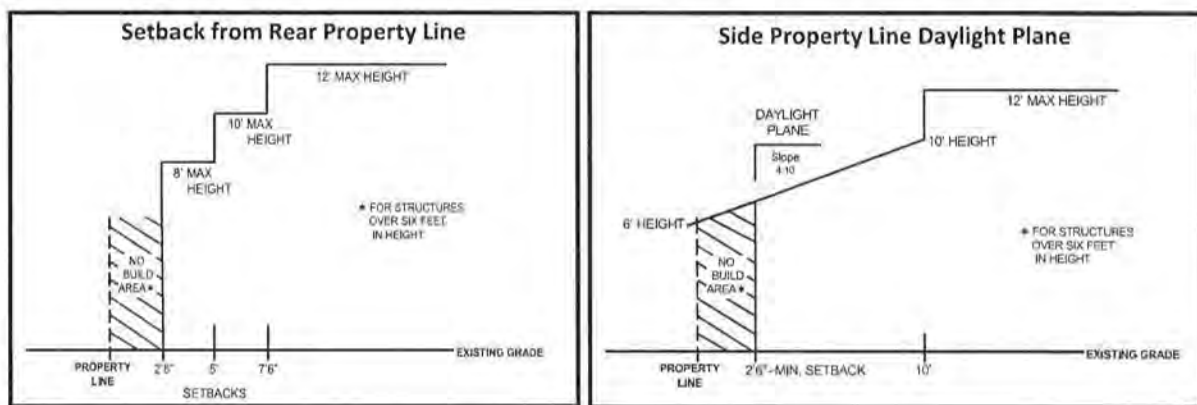
### Purpose

Review existing regulations and determine if modifications to the site development standards for accessory structures are warranted.

### Background

For its meeting of May 23, 2017, consideration of the Accessory Dwelling Unit regulations by Council was agendaized. In light of questions concerning the conversion of existing accessory structures into accessory dwelling units, the City Council continued its consideration of the accessory unit regulations to a future meeting.

Accessory structures on single-family (R1-10) zoned properties are regulated by Section 14.06.120 (Attachment 1) of the Municipal Code. Accessory structures over six feet in height can be located within the rear yard setback area, provided they have a minimum setback of 2.5 feet from the nearest property lines and do not exceed 800 square feet in size. An accessory structure may be up to 12 feet in height, depending on its placement within the rear yard area and its distance to the nearest side and rear property lines. However, the Code, in regulating the height, size, and setbacks for accessory structures, can appear confusing. The setback from the rear property line is governed by the overall height of an accessory structure and the setback from a side property line is governed by an accessory structure daylight plane. The following diagrams reflect how these standards are applied:



To provide additional clarity, two color coded diagrams are attached with this report. The first diagram shows where an accessory structure within a given height category can be sited on a corner lot or an interior lot (Attachment 2). A second diagram shows the distances to property lines that are required for an accessory structure that is placed within a rear yard setback area (Attachment 3).





Subject: Accessory Structure Standards

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### **Discussion/Analysis**

The existing accessory structure regulations have been modified at various times over the years in response to concerns that have come up regarding the height and placement of accessory structures on a lot. The most recent amendment to these regulations occurred in 2008, when the rear yard setback for taller accessory structures was increased from 2.5 feet to the current stepped setback requirement that ranges from 2.5 to 7.5 feet.

Like many regulations that have been altered or amended over time to address a variety of concerns, the language of this code section can be challenging for staff to explain and for property owners and applicants to understand. Staff has prepared a handout with graphics that describes and shows where the various accessory structures can be sited, which has helped; but a change to some of the code language could provide greater clarity and public understanding. The following is an example of how a code section could be reworded to provide greater clarity:

#### Existing Language

In no case, shall there be less than a five-foot clearance between either the accessory structure and the main structure or the accessory structure and the property line.

#### Possible Language

Clearance for accessory structure shall be one of the following:

- five (5) feet to the main structure, or
- five (5) feet to a property line

Additional changes may provide greater clarity and ease of use; however, staff would need additional time to evaluate and develop code language if so directed.

After receiving this presentation, the Council may feel that other amendments to the accessory structure regulations are warranted to ensure that new accessory structures do not unreasonably impact neighboring properties. However, it is also important to note that, historically, detached garages and accessory structures have been allowed to be sited with minimal setbacks when located in rear yard spaces; and hundreds of such structures currently exist on properties around the City. Other regulations, such as height, size and placement of window and door openings, could also be effective ways to minimize impacts on adjacent properties while allowing a property to have an accessory structure and a usable rear yard area.

Therefore, staff requests guidance from the Council on if there are potential impacts, such as noise, privacy, or aesthetics, related to accessory structures that are of concern and what current regulations, if any, should be modified to address these potential impacts.



**Subject:** Accessory Structure Standards

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**Options**

- 1) Provide direction to staff on amendments to the accessory structure regulations and start the public hearing process, beginning with review by the Planning and Transportation Commission.

**Advantages:** Modifications to the Code can help reduce potential impacts of uses within accessory structures on neighboring properties

**Disadvantages:** Adjustments to the Code can make many of the existing accessory structures nonconforming and intended results may not be achieved.

- 2) Retain current accessory dwelling unit regulations.

**Advantages:** Provides for continued regulation of accessory structures under current site development standards.

**Disadvantages:** May not appropriately mitigate potential impact of uses within the accessory structures on neighboring properties.

**Recommendation**

The staff recommends Option 1

## ATTACHMENT 1

### LOS ALTOS MUNICIPAL CODE – ACCESSORY STRUCTURE REGULATIONS

#### 14.06.120 - Accessory structures, outdoor barbeques and swimming pools (R1-10).

A.

Accessory structures that are no more than six feet in height may be located in interior and exterior side and rear yard setbacks subject to the following provisions:

1. The maximum width of the accessory structure shall be five feet.
2. The maximum length of the accessory structure shall be sixteen (16) feet.
3. The accessory structure shall be screened from off-site view with solid fencing which is not lower in height than the accessory structure and which is constructed in conformance with the provisions of [Chapter 14.72](#) of this title.
4. In no case shall there be less than a five-foot clearance between either the accessory structure and the main structure or the accessory structure and the property line.

B.

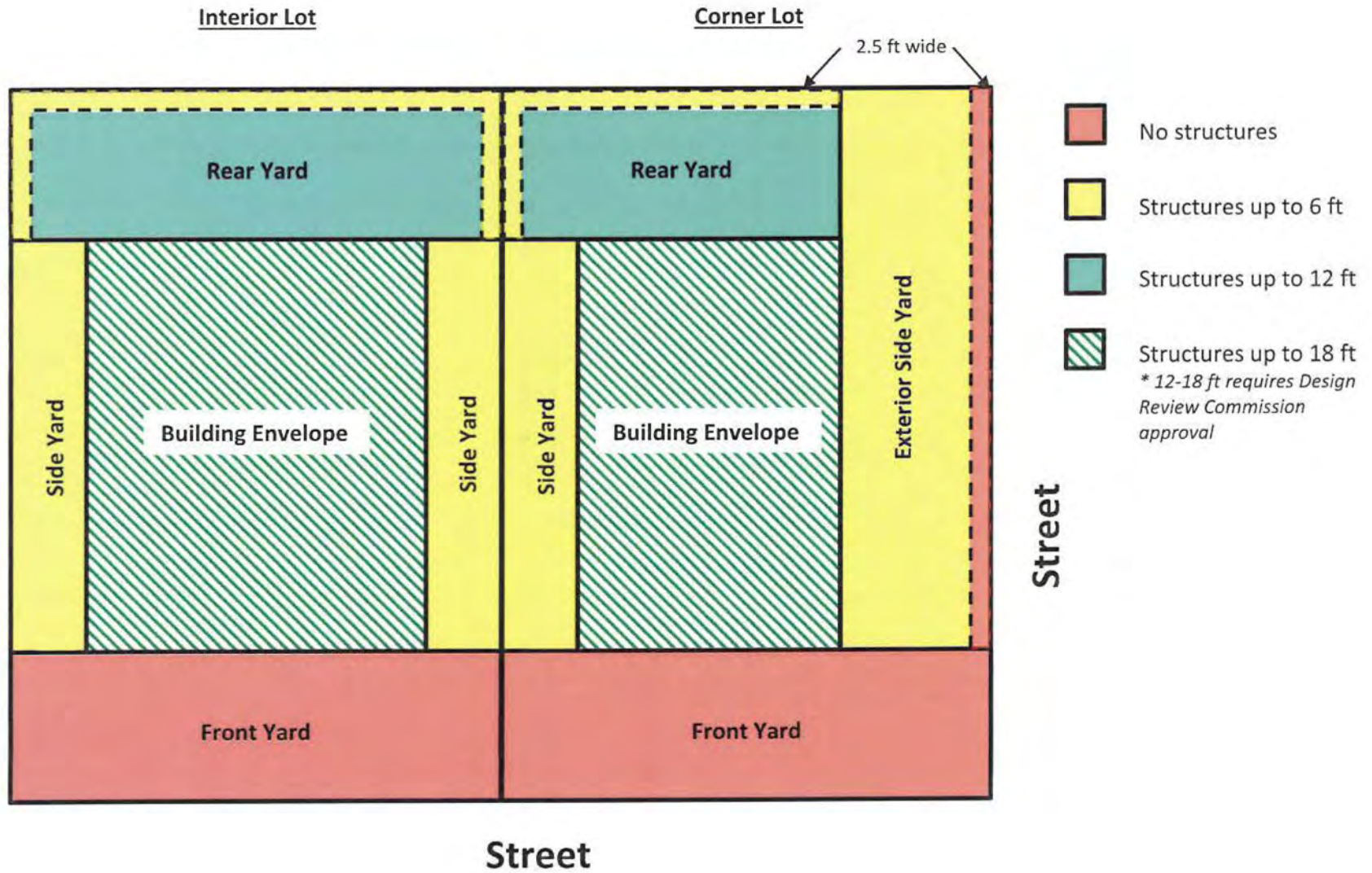
Accessory structures that are more than six feet in height may be located in the required rear yard setback area or in the main structure's building envelope, subject to the following provisions:

1. Accessory structures shall have a minimum setback of two and one-half feet from the side property line and a minimum setback from the rear property line as follows:
  - i. Two and one-half feet when the structure is under eight feet in height;
  - ii. Five feet when the structure is between eight and ten (10) feet in height;
  - iii. Seven and one-half feet when the structure is between ten (10) and twelve (12) feet in height; and
  - iv. Two and one-half feet when the rear property line abuts an alley.
2. No portion of any accessory structure shall project above a daylight plane, beginning at a height of six feet at the side property line and increasing at a slope of four feet for each ten (10) feet of distance from the side property line to a distance of ten (10) feet from the side property line.

3. The maximum allowable height for accessory structures shall be twelve (12) feet.
  4. The maximum allowable size for each accessory structure located in the required rear yard setback area shall be eight hundred (800) square feet of gross floor area.
  5. Notwithstanding the provisions of [Section 14.66.220](#) of this title, no portion of an accessory structure, including but not limited to roof eaves, chimneys and vents, shall project into any required setback or daylight plane as outlined in this subsection B.
  6. The architectural and site review committee may approve an accessory structure located entirely within the main structure's building envelope to extend up to eighteen (18) feet in height if the committee finds and determines that the additional height is necessary in order to establish architectural compatibility with the main structure.
- C. Outdoor barbeques, fireplaces, sinks and similar structures located within the required rear yard setback shall be set back a minimum of five feet from any property line. Said structures shall not be located in the required front or side yard setback areas.
- D. Swimming pools, hot tubs, and spas located within the required rear yard setback shall be set back a minimum of five feet from any property line. The setback shall be measured from the outside edge of the pool structure. Said structures shall not be located in a required front or side yard setback area.
- E. Accessory structures containing swimming pool motors and equipment shall not be located in a required interior side yard setback area.



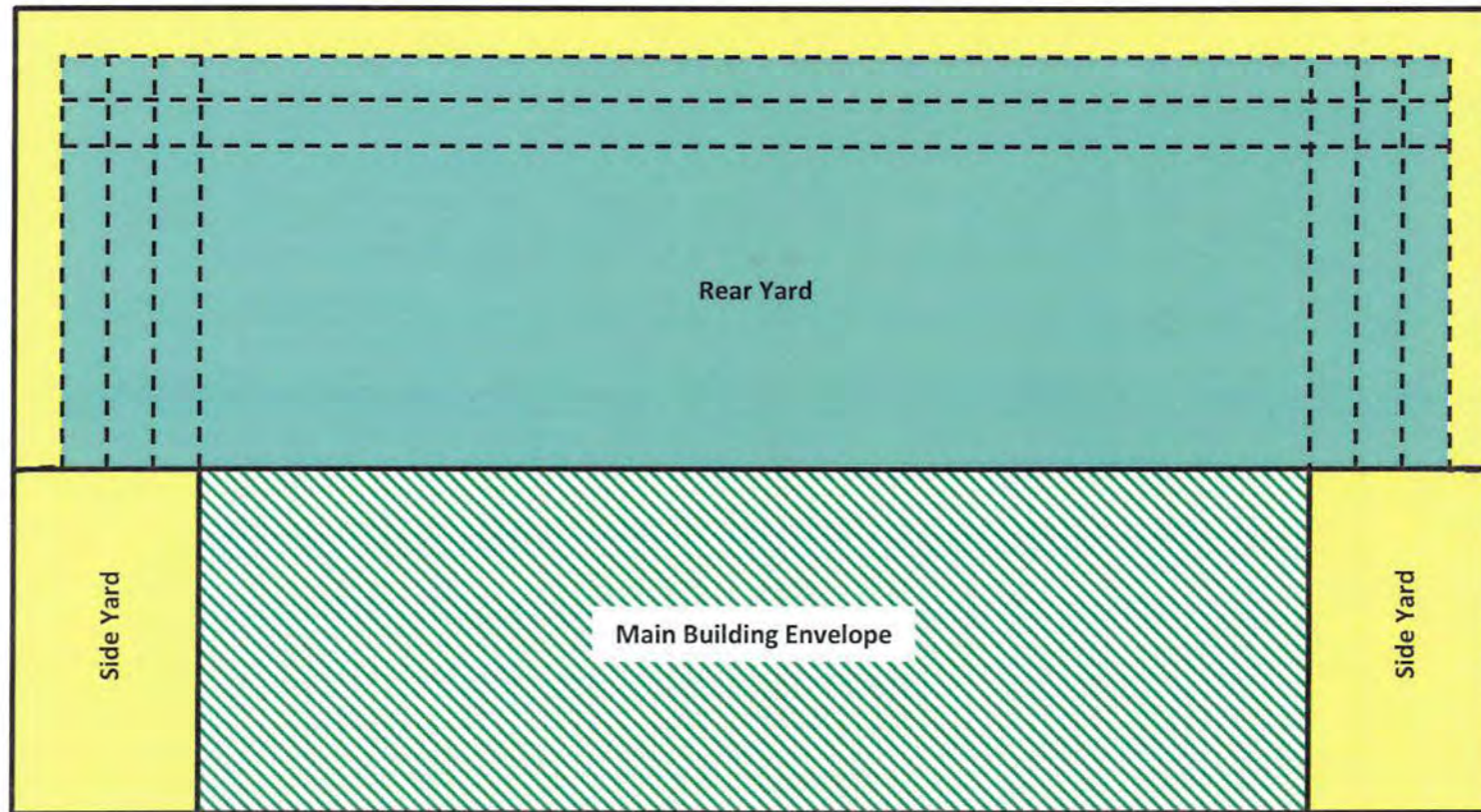
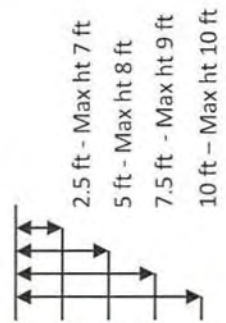
# Accessory Structure Placement





# Accessory Structure Placement Within the Rear Yard Setback Area

Side Yard Daylight Plane



Rear Yard Setback



## ORDINANCE NO. 2017-432

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING THE REGULATIONS FOR ACCESSORY DWELLING UNITS (SECOND LIVING UNITS)

**WHEREAS**, the State Legislature has found that accessory dwelling units are a necessary and valuable form of housing in California; and

**WHEREAS**, accessory dwelling units help diversify the City's housing stock and help provide rental units that are affordable; and

**WHEREAS**, accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting neighborhood character; and

**WHEREAS**, accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others within existing neighborhoods; and

**WHEREAS**, it is the intent of this ordinance to allow and promote the development of accessory dwelling units; and

**WHEREAS**, this Ordinance implements Program 4.2.1 and Program 4.2.2 of the City's 2015-2023 Housing Element by facilitating the development of new accessory dwelling units; and

**WHEREAS**, this Ordinance is in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, or welfare and is in conformance with the adopted General Plan of the City since it implements Housing Element Programs 4.2.1 and 4.2.2; and

**WHEREAS**, this Ordinance is exempt from environmental review pursuant to Section 15061 and Section 15268 of the California Environmental Quality Act Guidelines, as amended.

**NOW THEREFORE**, the City Council of the City of Los Altos hereby ordains as follows:

**SECTION 1. AMENDMENT OF CODE:** Adding and amending the following definitions to Chapter 14.02.070 of the Municipal Code:

“Accessory dwelling unit” means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provision for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling unit is situated. Accessory dwelling units also include efficiency units as defined by Section 17958.1 of the Health and Safety Code.

“Manufactured home” is as defined in Section 18007 of the Health and Safety Code.

“Passageway” means a pathway that is unobstructed, clear to the sky, and extends from a street to one entrance of the accessory dwelling unit.

“Second living unit” means a second dwelling on a single-family residential lot; refer to the definition of “accessory dwelling unit.”

**SECTION 2. AMENDMENT OF CODE:** Renaming the Permitted Uses sections of the single-family zoning districts in the Municipal Code as follows:

**14.06.020 – Permitted uses (R1-10)**

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

**14.08.020 – Permitted uses (R1-H)**

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

**14.10.020 – Permitted uses (R1-20)**

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

**14.12.020 – Permitted uses (R1-40)**

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

**SECTION 3. AMENDMENT OF CODE:** Amending Chapter 14.14 of the Municipal Code regarding Accessory Dwelling Units in R1 Districts as follows:

**Chapter 14.14 - ~~SECOND LIVING~~ ACCESSORY DWELLING UNITS IN R1 DISTRICTS**

**14.14.010 – Purpose.**

A. The Legislature found that accessory dwelling units are a valuable form of housing in California.

B. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others within existing neighborhoods.

C. Homeowners who create accessory dwellings units benefit from added income, and an increased sense of security.

D. Allowing accessory dwelling units in single-family districts provides additional rental housing stock in California.

E. Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

F. Accessory dwelling units are, therefore, an essential component of California’s housing supply.

G. It is the intent of this ordinance to allow and promote the development accessory dwelling units.

**14.14.020 14.14.010 - Permitted uses.**

In accordance with the provisions of this chapter ~~and upon the granting of design review as provided in Chapter 14.76,~~ one ~~second living~~ accessory dwelling unit may be permitted on a lot or parcel within a single-family residential zoning district that has a minimum of ~~the greater of:~~ (1) ~~one hundred fifty (150) percent of the lot area required in the residential zoning district in which the second living unit is proposed to be located;~~ or (2) ~~fifteen thousand (15,000) square feet of lot area~~ 10,000 square feet except as specified herein. ~~A second living~~ An accessory dwelling unit may be established through:

A. The conversion of existing floor space in a conforming, principal or accessory single-family structure regardless of lot size; ~~in which case the figures of one hundred fifty (150) percent and fifteen thousand (15,000) square feet set forth above shall be reduced to one hundred thirty (130) percent and thirteen thousand (13,000) square feet respectively in the R1-10 zoning district, and reduced to one hundred (100) percent of the minimum required lot area in the R1-20, R1-H, and R1-40 zoning districts;~~

B. An integral addition to a principal single-family structure; ~~in which case the figures of one hundred fifty (150) percent and fifteen thousand (15,000) square feet set forth above shall be reduced to one hundred thirty (130) percent and thirteen thousand (13,000) square feet respectively in the R1-10 zoning district, and reduced to one hundred (100) percent of the minimum required lot area in the R1-20, R1-H, and R1-40 zoning districts;~~

C. The ~~conversion~~ addition to an existing accessory structure ~~provided its location on the property is in conformance with present setback regulations and that has side and rear setbacks that are sufficient for fire safety;~~ or

D. The construction of a new accessory structure.

E. Accessory dwelling units do not exceed the allowable density for the lot upon which it is located, and that such units are a residential use consistent with the general plan and zoning designation for the lot.

F. Accessory dwelling units may not be sold separately from the primary residence and may be rented.

**14.14.030 - Required findings for approval. (Reserved)**

In addition to the findings required by Chapter 14.76, the following findings shall be made prior to approval of a second living unit:

A. That public benefit will result because the proposed second living unit will be maintained as affordable for a lower- or very low income household;

B. That appropriate administrative measures, including disclosure of the maximum rent allowed and the income level of the occupant(s), have been required which will ensure that if the second living unit is rented or leased, it will be at a rate which is affordable to a person or persons of lower- or very low income levels as required by Section 14.14.040, and that the income level of the resident(s) of the second living unit meets the appropriate limits for a lower- or very low-income household as determined by the city based on state and federal guidelines;

~~C. That required parking areas are located on the site;~~

~~D. That the parcel size is adequate in size to maintain a second unit and related parking in terms of its status as an accessory use both visually and functionally;~~

~~E. That when a property has frontage on more than one street, the access for the main residence and second living unit has been combined in such a way as to reduce the prominence and visibility of the second living unit parking to the surrounding neighborhood; provided, however, that on a corner lot, the appropriateness of combining the access of the main residence and the second living unit shall be determined on a case-by-case basis;~~

~~F. Appropriate conditions have been applied as necessary to ensure that the second living unit will not adversely impact neighboring property owners due to:~~

~~1. Inappropriate location, amount, and/or design of on-site parking;~~

~~2. Inappropriate location with respect to the character of the existing neighborhood;~~

~~3. Excessive noise potential, particularly when neighboring homes are in close proximity;~~

~~4. An excessive number of second living units in the vicinity;~~

~~5. Insufficient screening of the unit; and~~

~~6. Lack of compliance with the floor area ratio, setback, lot coverage, and other development standards of the R1 zoning districts.~~

#### **14.14.040 - Unit size and occupancy residency requirements.**

~~A. The maximum size of a second living an accessory dwelling unit, not including basements or any covered parking, shall be eight hundred (800) square feet. However, a second living accessory dwelling unit of greater than the maximum size, may be considered only within a residential or accessory structure which existed prior to March 1, 1995, and subject to the required findings in Section 14.14.030. The maximum size of an accessory dwelling unit shall not exceed 50 percent of the existing living area of a principal living unit.~~

~~B. No more than two persons shall reside in a second living unit. Accessory dwelling units may not be rented for terms of less than 30 days.~~

~~C. Either the principal living unit or the second living accessory dwelling unit shall be the principal residence of at least fifty (50) percent of record owners of the property.~~

~~D. If the property owner resides in the second living unit, then the primary residence can be rented at market rate, but shall have no effect on the affordability requirement for the second living unit for future occupancies.~~

~~E. If rented or leased, second living units with a size of greater than six hundred forty (640) square feet shall be affordable to a person or persons of very low-income levels, and the income level of the person(s) renting the second living unit shall not be greater than the limits for a very low-income household as determined by the city based on state and federal guidelines.~~

~~F. If rented or leased, second living units with a size of not more than six hundred forty (640) square feet shall be affordable to a person or persons of low-income levels, and the income level of the resident(s) of the second living unit shall not be greater than the limits for a lower income household as determined by the city based on state and federal guidelines.~~

~~G. The resident income limits in subsections E and F of this section shall not apply if the second living unit is occupied by an immediate family member.~~

#### **14.14.050 - Development and design standards.**

A. ~~A second living~~ An accessory dwelling unit shall meet all the current development standards of the residential zoning district in which the ~~second living~~ accessory dwelling unit is located, except as may be modified by the criteria set forth in this chapter.

B. ~~A second living unit shall be clearly subordinate to the principal living unit by size and location. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.~~

C. The exterior ~~design appearance~~ of a ~~second living~~ an accessory dwelling unit shall be compatible with the principal living unit.

D. Entrances to a ~~second living~~ an accessory dwelling unit shall be screened from street view.

E. ~~A second living unit~~ Accessory dwelling units shall not be allowed in mobile housing units, including, but not limited to, mobile homes, trailers, and motor homes. Accessory dwelling units shall be allowed in manufactured homes.

F. Accessory dwelling ~~Second living~~ units that are constructed by the conversion of existing floor space in a single-family structure or by an integral addition to a single-family structure ~~shall~~ may include a common wall with, and internal access to, the main residence to the degree determined appropriate by the City.

G. Notwithstanding the setback requirements in the R1 Districts, no setback shall be required for an existing garage that is converted into an accessory dwelling unit. A setback of five feet shall be required from the side and rear property line for an accessory dwelling unit constructed above a garage; and in such cases, no second story window shall be located within 17.5 feet of the side property line and/or 25 feet from the rear property line.

H. In existing principal dwellings and existing accessory structures, new or separate utilities may be allowed but not subject to connection or capacity fees.

I. In new structures separate utilities may be permitted subject to connection and capacity fees.

J. Notwithstanding Title 12 (Buildings and Construction) of the Municipal Code, fire sprinklers shall not be required in accessory dwelling units if they are not required in the principal residence.

#### **14.14.060 - Parking requirements.**

~~(As provided in Chapter 14.74 of this title.)~~ Notwithstanding Chapter 14.74 of this title, accessory dwelling units shall meet the following parking standards:

1. No parking is required if the accessory dwelling unit complies with any of the following:
  - a. Located within ½ mile of public transit stop;
  - b. Located within an historic district;
  - c. The accessory dwelling unit is part of an existing principal residence or an existing accessory structure;
  - d. In an area requiring on-street parking permits but they are not offered to accessory dwelling unit occupants; or
  - e. Within one block of car-share vehicle pick-up and drop-off location.
2. One (1) off-street parking space shall be required per accessory dwelling unit and the parking may be provided as tandem parking on an existing driveway or in a paved parking space within the front yard.
3. When an existing garage or carport required for the principle living unit is removed or converted into an accessory dwelling unit, the required covered parking shall be replaced in conformance with the district requirements.

**14.14.070 - Required conditions.**

~~A. At the time the initial rental contract or lease is executed, the owner shall furnish the tenant(s) with a written disclosure of the maximum rent allowed in order for the unit to meet the requirements of the use permit and this chapter. The maximum rent disclosure shall be signed by the tenant(s) and a copy retained by the property owner.~~

~~B. At the time the initial rental contract or lease is executed with a tenant, the tenant(s) shall execute an affidavit certifying that their household income level currently meets the requirements of the use permit and this article. The affidavit shall be signed by the tenant(s) and a copy retained by the property owner.~~

~~C. Upon request, the property owner shall furnish a copy of the signed rent disclosure, rental contract/lease and tenant affidavit to the city.~~

~~D-A. The property owner shall ensure that the property and improvements thereon are maintained in a commonly acceptable manner as determined by the planning department division.~~

~~E-B. The property owner shall ensure that unreasonable noise disturbances do not occur.~~

~~F-C. A deed restriction shall be recorded setting forth the occupancy requirements that not more than two persons shall reside in the second living unit and that the principal residence of the property owner shall be maintained on the property.~~

~~G. The affordability of the second living unit shall be maintained at all times.~~

**SECTION 4. AMENDMENT OF CODE:** Amending Chapter 14.74 of the Municipal Code regarding R1 Parking Requirements as follows:

**14.74.010 – R-1 District requirements.**

A. Not less than two parking spaces, one of which shall be covered, shall be required for the single-family dwelling each living unit, including second living units developed under the provisions of Chapter 14.14 of this title.

**SECTION 5. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 6. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 7. EFFECTIVE DATE.** This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on May 23, 2017 and was thereafter, at a regular meeting held on \_\_\_\_, 2017 passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Mary Prochnow, MAYOR

Attest:

\_\_\_\_\_  
Jon Maginot, CMC, CITY CLERK