



DATE: August 21, 2019

AGENDA ITEM # 3

**TO:** Design Review Commission  
**FROM:** Zachary Dahl, Planning Services Manager  
**SUBJECT:** Update on Accessory Dwelling Unit Deed Restrictions

### **RECOMMENDATION:**

Receive an update on the City's updated protocol for addressing Accessory Dwelling Unit deed restrictions for projects approved by the Commission

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### **BACKGROUND**

To encourage the development of Accessory Dwelling Units (ADUs), also known as Second Living Units, the State of California has passed legislation over the years to encourage their construction. In 2003, to be consistent with State law, the City amended the Zoning Code to remove the requirement that a use permit be obtained to build an ADU and established a ministerial review process for approving ADUs. However, as a policy, new ADUs were still referred to the Design Review Commission for review prior to their approval. In 2017, the State approved changes to ADU laws that further reduce barriers to building ADUs, required more streamlined approvals and required jurisdictions to better accommodate the development of ADUs. As a result of these new requirements, new ADUs were no longer referred to the DRC for review before approval. In accordance with the new ADU laws, the City adopted an updated Accessory Dwelling Unit Ordinance that went into effect in August of 2018.

### **DISCUSSION**

Between 2003 and 2017, the Design Review Commission (DRC) and its predecessor, the Architecture and Site Review Committee (A&S), reviewed all new ADUs, their approval findings and their conditions before a Planning approval was issued. These conditions included a requirement to record a deed restriction against the property that specified the following:

- No 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.

These two restrictions were consistent with the ADU Ordinance that was adopted in 2003. However, the updated State law that went into effect in 2017 specified that it was no longer permissible to regulate the number of occupants in an ADU. Additionally, when the City Council adopted an updated ADU Ordinance in 2018, the requirement for the property owner to reside on the property was removed. As a result, the previously recorded deed restrictions were no longer enforceable, and

staff begun to get requests from property owners seeking to have the deed restrictions removed. Staff has now drafted an updated deed restriction that removes the outdated ADU occupancy requirements while also ensuring that the ADUs are managed and used in accordance with the City's current ADU rules and regulations. And, since the conditions that required these deed restrictions were originally approved by the DRC, and before it the A&S, staff wanted to provide an update to the protocol with the Commission before proceeding forward. A copy of the updated deed restriction is included as Attachment A for reference.

Attachments:

- A. Updated ADU Deed Restriction

# ATTACHMENT A

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

City of Los Altos  
1 North San Antonio Road  
Los Altos, CA 94022  
Attn: Community Development Director

To Be Recorded Without Fee As Per Government Code § 27383

## DEED RESTRICTION

The undersigned (*owners/co-owners*) of the property in the City of Los Altos, Santa Clara County, State of California, with a street address of (*1234 Easy St*), more fully described in “Exhibit A,” which is attached hereto and incorporated by reference, declare that:

- A. The Accessory Dwelling Unit (previously referred to as a Second Living Unit) on the subject property shall be occupied and maintained in accordance with the City’s Accessory Dwelling Unit Ordinance (Los Altos Municipal Code Chapter 14.14); and
- B. This deed restriction supersedes and replaces the deed restriction (#\_\_\_\_), recorded on (*date*) related to the occupancy and use of the Accessory Dwelling Unit.

This Deed Restriction binds all successive owners of the property and shall not be removed without the written approval of the City of Los Altos.

Date: \_\_\_\_\_ *signature* \_\_\_\_\_  
(*name*)

Date: \_\_\_\_\_ *signature* \_\_\_\_\_  
(*name*)