



City of Los Banos

At the Crossroads of California

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AGENDA

PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS
520 J Street
Los Banos, California

WEDNESDAY, FEBRUARY 27, 2019

If you require special assistance to attend or participate in this meeting, please call the Planning Secretary @ (209) 827-7000 ext. 2431 at least 48 hours prior to the meeting.

The City of Los Banos complies with the Americans with Disabilities Act (ADA) of 1990.

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Si requiere asistencia especial para atender o participar en esta junta por favor llame a la oficina de la Secretaria del Departamento de Planificación al (209) 827-7000 ext. 2431 a lo menos de 48 horas previas de la junta.

La Ciudad de Los Banos cumple con la Acta de Americanos con Desehabilidad (ADA) de 1990.

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the meeting and in the Community & Economic Development Department's office located at City Hall, 520 J Street, Los Banos, California during normal business hours.

In addition, such writings and documents may be posted on the City's website at www.losbanos.org.

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Cualquier escritura o los documentos proporcionaron a una mayoría del Comisión de Planificación con respecto a cualquier artículo en este orden del día será hecho disponible para la inspección pública en la reunión y en la oficina del Departamento de Comunidad y Desarrollo Economico del City Hall, 520 J Street, Los Banos, California durante horas de oficina normales.

Además, tales escrituras y los documentos pueden ser anunciados en el website de la Ciudad en www.losbanos.org.

1. CALL TO ORDER **7:00 PM**
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL: (Planning Commission Members)
Cates __, Dees __, Giuliani __, Higby __, Limon __, Spada __, Toscano __
4. APPROVAL OF AGENDA

Recommendation: Approve the agenda as submitted.

5. CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF DECEMBER 12, 2018

Recommendation: Approve the minutes as submitted.

6. CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE SPECIAL PLANNING COMMISSION MEETING OF FEBRUARY 5, 2019

Recommendation: Approve the minutes as submitted.

7. PUBLIC FORUM: Members of the public may address the Commission on any item of public interest that is within the jurisdiction of the Commission, including agenda and non-agenda items. No action will be taken on non-agenda items. Speakers are limited to a five (5) minute presentation.

8. PUBLIC HEARINGS: If You Challenge the Proposed Action as Described herein in Court, You May Be Limited to Raising Only Those Issues You or Someone Else Raised at the Public Hearing Described herein, or in Written Correspondence, Delivered to the City at, or Prior to, the Public Hearing.

A. Public Hearing – To Consider a Recommendation to the Los Banos City Council to Adopt an Ordinance to Establish the Regulation and Processing of Accessory Dwelling Units.

- 1) Planning Commission Resolution No. 2019-03 – Recommending to the City Council Adoption of an Ordinance of the City Council of the City of Los Banos Amending Article 30 Chapter 3 of Title 9 of the Los Banos Municipal Code Relating to Accessory Dwelling Units.

Recommendation: Receive staff report, open the public hearing, receive public comment, close the public hearing, and adopt the resolution as submitted.

9. CONSIDERATION OF APPOINTMENT OF A PLANNING COMMISSIONER AND AN ALTERNATE TO THE TRAFFIC SAFETY COMMITTEE

Recommendation: Select a Planning Commissioner and an alternate.

10. COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT

11. COMMISSIONER REPORTS

- A. Cates
- B. Dees
- C. Giuliani

- D. Higby
- E. Limon
- F. Spada
- G. Toscano

12. ADJOURNMENT

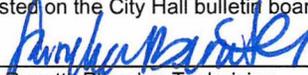
APPEAL RIGHTS AND FILING PROCEDURES

Any person dissatisfied with an act or determination of the Planning Commission may appeal such act or determination to the Planning Commission by filling written notice with the Planning Commission Secretary not later than five (5) business days (excluding holidays) after the day on which the act or determination was made. An appeal must state the act or determination which is being appealed, the identity of the applicant and his/her interest in the matter, and set forth in concise statement(s) the reasons which render the Commission's decision unjustified or inappropriate. (Los Banos Municipal Code Section 9-3.2326)

Concerning an action taken by the Planning Commission related to Chapter 2 Articles 1 through 17 of the Los Banos Municipal Code "Subdivisions", if a subdivider or other affected property owner is dissatisfied with any action of the Commission with respect to a tentative map or the nature and extent of improvements recommended or required he/she may within fifteen (15) days after such action appeal to the Planning Commission Secretary for a public hearing on the matter. An appeal must state the action being appealed, identify the agenda item by agency number or project title, and set forth in concise statement(s) the reasons for the appeal. (Los Banos Municipal Code Sections 9-2.807)

Appeals must be in writing and include the appellant's name and address and original signature. A filing fee of \$150.00 must accompany the notice of appeal.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board, not less than 72 hours prior to the meeting.


Sandra Benetti, Planning Technician

Dated this 22nd day of February 2019

**CITY OF LOS BANOS
PLANNING COMMISSION MEETING MINUTES
DECEMBER 12, 2018**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the Planning Commission. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

CALL TO ORDER: Chairperson Cates called the Planning Commission Meeting to order at the hour of 7:00 p.m.

PLEDGE OF ALLEGIANCE: The pledge of allegiance was led by Commissioner Toscano.

ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT: Planning Commission Members John Cates, David Dees, Tom Spada, and Susan Toscano; Palmer McCoy absent.

STAFF MEMBERS PRESENT: Community & Economic Development Director Elms, Associate Planner Rudy Luquin, Planning Technician Sandra Benetti, and City Attorney William A. Vaughn.

CONSIDERATION OF APPROVAL OF AGENDA. Motion by Spada, seconded by Toscano to approve the agenda as submitted. The motion carried by the affirmative action of all Planning Commission Members present; McCoy absent.

CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE ADJOURNED PLANNING COMMISSION MEETING OF NOVEMBER 27, 2018. Motion by Spada, seconded by Dees to approve the minutes as submitted. The motion carried by the affirmative action of all Planning Commission Members present; McCoy absent.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE PLANNING COMMISSION MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE.

Chairperson Cates opened the public forum. No one came forward to speak and the public forum was closed.

PUBLIC HEARING – TO CONSIDER APPROVAL OF SITE PLAN REVIEW #2018-06 FOR THE DEVELOPMENT OF A COMMERCIAL STRUCTURE WITHIN THE HIGHWAY-COMMERCIAL ZONING DISTRICT CONSISTING OF ONE (1) 4,200 SQUARE FOOT COMMERCIAL STRUCTURE LOCATED AT 1153 WEST PACHECO BOULEVARD, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL

NUMBER: 431-141-021. Associate Planner Luquin presented the staff report, which included a PowerPoint presentation.

Chairperson Cates opened the public hearing. KATHY BALLARD, Los Banos, inquired about the landscaping and if it includes the strip along Pacheco Boulevard. Community & Economic Development Director Elms confirmed that it does include that area.

No one else came forward to speak and the public hearing was closed.

Motion by Spada, seconded by Dees to adopt Planning Commission Resolution No. 2018-39 – Approving Site Plan Review #2018-06 for the Development of One (1) 4,200 Square Foot Commercial Structure Located at 1153 West Pacheco Boulevard, More Specifically Identified as Assessor’s Parcel Number: 431-141-021. The motion carried by the affirmative action of all Planning Commission Members present; McCoy absent.

City Attorney Vaughn stated that the applicant for the next two items is his client and he would be excusing himself from the Council Chambers during the presentation and deliberations of those two items. City Attorney Vaughn left the Council Chambers at 7:11 p.m.

PUBLIC HEARING – TO CONSIDER A CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO SECTION 15332 (INFILL DEVELOPMENT PROJECTS) AND SITE PLAN REVIEW #2018-04 FOR THE DEVELOPMENT OF FOUR (4) RESIDENTIAL STRUCTURES TOTALING 12,124 SQUARE FEET WITHIN THE MEDIUM-DENSITY RESIDENTIAL ZONING DISTRICT LOCATED AT 649 AND 661 E STREET, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBERS: 025-063-018 AND 025-063-019.

Associate Planner Luquin presented the staff report, which included a PowerPoint presentation.

Commissioner Spada inquired about the power pole at this location and what the Project Review Board recommended as far as utilities goes.

Associate Planner Luquin stated that the Project Review Board wanted to require undergrounding the utilities but could look at working with the applicant to make it easier on him.

Community & Economic Development Director Elms clarified that a deferred improvement agreement is a possibility depending on the development occurring.

Commissioner Spada spoke of how the Planning Commission had asked to cut some T1-11 siding and put belly bands on the façade but didn’t see it in the plans.

Community & Economic Development Director Elms suggested including that wording in the motion so it’s memorialized into the record.

Chairperson Cates opened the public hearing. JOE ROCHA, applicant, stated that it was his understanding that his assistant had electronically sent the revised plans with

the siding and lighting and thanked the Community & Economic Development Department and Building Department for working with him.

Community & Economic Development Director Elms responded that our email server limits the size of attachments and it's possible that occurred and prevented staff from receiving the plans.

No else one came forward to speak and the public hearing was closed.

Community & Economic Development Director Elms pointed out that the applicant would be receiving a density bonus which allows more units for the developer and how it also helps the City with eligibility in federal and state funding to meet the state's requirements.

Commissioner Spada spoke of how the state is coming down on cities as far as low-income housing inventory and thanked Mr. Rocha for providing this type of housing for the community.

Commissioner Dees inquired about parking and traffic studies done for this project.

Associate Planner Luquin responded that there is onsite parking with driveways and how it complies with off-street parking requirements in the Los Banos Municipal Code.

Mr. Rocha offered to put additional parking instead of some landscaping.

Community & Economic Development Director Elms declined the offer stating that the landscaping meets the Los Banos Municipal Code requirements and staff prefers to keep that as it is in the plans.

Motion by Dees, seconded by Spada to adopt Planning Commission Resolution No. 2018-37 – Approving a Categorical Exemption from the California Environmental Quality Act Pursuant to Section 15332 (Infill Development Projects) and Approving Site Plan Review #2018-04 for the Development of Four (4) Residential Structures Totaling 12,124 Square Feet Located at 649 and 661 E Street, More Specifically Identified as Assessor's Parcel Numbers: 025-063-018 and 025-063-019 with the addition of a Condition of Approval to cutting some T1-11 siding and putting belly bands. The motion carried by the affirmative action of all Planning Commission Members present; McCoy absent.

PUBLIC HEARING – TO CONSIDER A CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO SECTION 15332 (INFILL DEVELOPMENT PROJECTS) AND SITE PLAN REVIEW #2018-05 FOR THE DEVELOPMENT OF A MIXED-USE STRUCTURE WITHIN THE MIXED-USE ZONING DISTRICT CONSISTING OF TWO (2) RESIDENTIAL UNITS ON THE SECOND FLOOR AND OFFICE SPACE ON THE FIRST FLOOR TOTALING 3,192 SQUARE FEET LOCATED AT 652 K STREET, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 026-053-020. Associate Planner Luquin presented the staff report, which included a PowerPoint presentation.

Commissioner Dees inquired why there are so many cars parked near the project site on the aerial image.

Associate Planner Luquin responded regarding the number of parking stalls that will be created onsite as well as how the applicant will have a reciprocal easement between this lot and adjacent lot which Mr. Rocha owns.

Community & Economic Development Director Elms responded that there are two schools near this project site, how the schools create an impact to the downtown at no fault to the applicant, how the applicant is improving the parking area by creating off-street parking, the need to understand the peak traffic hours in the morning and afternoon due to student pick up and drop off, and how the applicant would have designated parking stalls onsite for those that live in the residential units.

Chairperson Cates opened the public hearing. KATHY BALLARD, Los Banos, inquired about Lighting & Landscape Districts for infill projects in the downtown.

No one else came forward to speak and the public hearing was closed.

Community & Economic Development Director Elms responded to Ms. Ballard and stated that there is a Condition of Approval that does require Mr. Rocha to agree to join a Landscape & Lighting District and Community Facilities District although there aren't currently these districts in this area, how the downtown wants benefits of a more cohesive district and are looking at ways to create a district to assess themselves, and how if there were City districts to be formed in the future then Mr. Rocha would be required to join at that time.

Motion by Spada, seconded by Toscano to adopt Planning Commission Resolution No. 2018-38 – Approving a Categorical Exemption from the California Environmental Quality Act Pursuant to Section 15332 (Infill Development Projects) and Approving Site Plan Review #2018-05 for the Development of a Two (2) Story Mixed-Use Structure with Two (2) Residential Units on the Second Floor and Office Space on the First Floor Totaling 3,192 Square Feet Located At 652 K Street, More Specifically Identified as Assessor's Parcel Number: 026-053-020. The motion carried by the affirmative action of all Planning Commission Members present; McCoy absent.

City Attorney Vaughn returned to his seat in the Council Chambers at 7:49 p.m.

PUBLIC HEARING – TO CONSIDER A CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO SECTION 15311 (ACCESSORY STRUCTURES) AND CONDITIONAL USE PERMIT #2018-15 TO ALLOW FOR THE USE OF FIVE (5) BILLBOARDS WITHIN THE HIGHWAY-COMMERCIAL ZONING DISTRICT LOCATED AT 3400 EAST PACHECO BOULEVARD, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 084-010-077. Associate Planner Luquin presented the staff report, which included a PowerPoint presentation, and noted that the public hearing notice originally

quoted the wrong section of CEQA for the categorical exemption and stated that it should have quoted Section 15304 (Minor Alterations to Land).

Commissioner Spada stated for the record that he will support the project because the applicant is within his rights; however, he believes that the number of billboards is excessive.

Chairperson Cates opened the public hearing. KATHY BALLARD, Los Banos, inquired about illumination.

JOVAN GRANADOS, on behalf of Hostetler Outdoor LLC, spoke of how these billboards are not digital signs, how the illumination is lighting from above the board to illuminate the display in the evening time, how they are located within 1,000 feet from commercial activities, Holt Brothers located on one side and Amerigas on the other side, how Caltrans requires that the billboards be within 1,000 feet from commercial activity, and stated that they are requesting a twenty foot variance to be on the safe side.

Commissioner Dees stated that the applicant has the right but inquired why, spoke of how he wants the county to look nice, and asked the applicant to explain her intentions behind these signs.

Mrs. Granados responded that it is the applicant's objective to give back to the City and invest in development and improve the aesthetics within the community, how the applicant has already improved entrances at the northern, southern, and western boundaries, how this is a chance to improve at the eastern entrance to the City, how there is old wood with dry rot, inconsistent sizes, how they are trying to provide consistent looks by replacing five signs on the western side of the sixth sign, and how this would look cleaner and be more consistent and aesthetically appealing.

Commissioner Spada inquired if these be on metal poles.

Mrs. Granados responded that the City requires a single pole for the billboards.

Chairperson Cates stated that these billboards are in bad shape and he has no problem with improving these.

No one else came forward to speak and the public hearing was closed.

Motion by Dees, seconded by Toscano to adopt Planning Commission Resolution No. 2018-40 – Approving a Categorical Exemption from the California Environmental Quality Act (CEQA) Pursuant to Section 15311 (Accessory Structures and Approving Conditional Use Permit #2018-15 to Allow the Modification and Use of Five (5) Billboards Located at 3400 East Pacheco Boulevard, More Specifically Identified as Assessor's Parcel Number: 084-010-077. The motion carried by the affirmative action of all Planning Commission Members present; McCoy absent.

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT.

Community & Economic Development Director Elms reported that the next Planning Commission meeting on December 26, 2018 will be cancelled due to the Christmas holiday, wished all a Merry Christmas, and spoke of how the Planning Commission interviews will be held sometime this month and new members will be seated in January.

Chairperson Cates inquired if there are any new tenants that can be announced for vacant locations.

Community & Economic Development Director Elms responded that staff hopes that we can announce names for the Save Mart Center soon.

PLANNING COMMISSION MEMBER REPORTS.

CATES: Wished everyone a Merry Christmas, thanked staff, spoke of how wonderful the Christmas Parade was this year, and gave a shoutout to the Police and Public Works Departments for their help with the parade.

DEES: No report.

McCOY: Absent.

SPADA: Wished everyone a Merry Christmas and thanked staff.

TOSCANO: No report.

ADJOURNMENT: The meeting was adjourned at the hour of 8:09 p.m.

APPROVED:

John Cates, Chairperson

ATTEST:

Sandra Benetti, Planning Technician

**CITY OF LOS BANOS
PLANNING COMMISSION SPECIAL MEETING MINUTES
FEBRUARY 5, 2019**

***ACTION MINUTES** – These minutes are prepared to depict action taken for agenda items presented to the Planning Commission. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.*

CALL TO ORDER: Chairperson Cates called the Planning Commission Special Meeting to order at the hour of 7:00 p.m.

PLEDGE OF ALLEGIANCE: The pledge of allegiance was led by Commissioner Giuliani.

ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT: Planning Commission Members John Cates, David Dees, Mona Giuliani, Tom Spada, and Susan Toscano.

STAFF MEMBERS PRESENT: Community & Economic Development Director Elms, Associate Planner Rudy Luquin, Planning Technician Sandra Benetti, and City Attorney William A. Vaughn.

REORGANIZATION OF PLANNING COMMISSION – SELECTION OF NEW CHAIRPERSON AND VICE CHAIRPERSON.

Commissioner Toscano moved to nominate Commissioner Cates as Chairperson.

Motion by Spada, seconded by Dees to close nominations for Chairperson. The motion carried by the affirmative action of all Planning Commission Members present.

Motion by Spada, seconded by Dees to nominate Commissioner Cates as Chairperson. The motion carried by the affirmative action of all Planning Commission Members present.

Commissioner Toscano moved to nominate Commissioner Spada as Vice Chairperson.

Motion by Giuliani, seconded by Dees to close nominations for Vice Chairperson. The motion carried by the affirmative action of all Planning Commission Members present.

Motion by Giuliani, seconded by Dees to nominate Commissioner Spada as Vice Chairperson. The motion carried by the affirmative action of all Planning Commission Members present.

CONSIDERATION OF APPROVAL OF AGENDA. Motion by Giuliani, seconded by Dees to approve the agenda as submitted. The motion carried by the affirmative action of all Planning Commission Members present.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE PLANNING COMMISSION MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE.

Chairperson Cates opened the public forum. No one came forward to speak and the public forum was closed.

PUBLIC HEARING – TO CONSIDER RECOMMENDING TO THE LOS BANOS CITY COUNCIL GENERAL PLAN AMENDMENT #2018-03, ZONE CHANGE #2018-03, AND A MITIGATED NEGATIVE DECLARATION (SCH#2019011005) CONSISTING OF A GENERAL PLAN AMENDMENT AND ZONE CHANGE TO REDESIGNATE APPROXIMATELY 5 ACRES FROM LOW DENSITY RESIDENTIAL TO HIGH DENSITY RESIDENTIAL FOR THE DEVELOPMENT OF 96 MULTI-FAMILY RESIDENTIAL UNITS LOCATED ON THE WEST SIDE OF MERCY SPRINGS ROAD (SR 165) NORTH OF SANTA BARBARA STREET AND EAST OF SANTA VENETIA STREET, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBER: 082-030-051.

Community & Economic Development Director Elms presented the staff report, which included a PowerPoint presentation, noting that a comment letter was received by the Los Banos Unified School District’s legal counsel, Lozano Smith Attorneys at Law, regarding school fees and reminded the Commission that our land use legal counsel, Abbott & Kindermann, advised the City follow all local and state standards regarding prevailing law on school impact fees.

Commissioner Dees inquired about gas tax and where those funds come from.

Community & Economic Development Director Elms responded that fuel tax comes from the State and funds our street repairs and street work and spoke of the State pursuing legal action against jurisdictions who aren’t in compliance with their Housing Elements.

Commissioner Giuliani inquired when the cutoff date for compliance will be.

Community & Economic Development Director Elms responded that the City was formally notified by the State Department of Housing and Community Development that we have not met certain milestones and gave us a timeline to comply, we gave explanation to state and they allowed us until end of March to get City Council approval.

Commissioner Spada inquired as to who is paying these costs.

Community & Economic Development Director Elms responded that the applicant paid an application fee/deposit, they will pay for the traffic study, and stated that this property owner allowed City to move forward with the General Plan Amendment and Zone Change.

Community & Economic Development Director Elms reiterated for the record that this is strictly a land use entitlement for compliance with the Housing Element and future construction will require Site Plan Review at that time.

Commissioner Giuliani inquired if the traffic items in the Mitigation Monitoring Plan is compliance with option 2 of the comment letter from the school district.

Community & Economic Development Director Elms responded that the school district is asking for mitigation directly related to schools, those traffic mitigation measures are directly related to the impact of this project and its impact to the immediate vicinity and the intersections that were analyzed in the traffic study, and it doesn't address school facilities.

Commissioner Dees inquired if this was discussed at the 2x3 City/school district meetings.

Community & Economic Development Director Elms responded that those meetings are held among a combination of Los Banos Unified School District and City Council Members, how this item hasn't come forward to City Council yet, this is a high level discussion, and stated that the property owner has had conversations with the school district.

Commissioner Dees inquired if staff was aware of the outcomes.

Community & Economic Development Director Elms responded that those discussions don't relate to this project as within the purview of the Planning Commission.

Chairperson Cates opened the public hearing. ROBERT CHEEK, 1148 Saratoga Street, spoke of his concern regarding fiscal aspects of this impact of development including road costs and traffic, the lack of ease of access of information, how addition of 96 units would need a sound wall and this would impact cost of construction, traffic is a concern, inquired if there are plans to open certain streets up to Mercey Springs Road, and stated that empirical information like money and time should be available online. DON LARSON, Los Banos Unified School District, spoke regarding the school district's support for this project and understands the importance of these land use entitlements, how their goal is to provide an optimum learning environment for students, how SB50 provides for statutory fees, the Los Banos Unified School District levies level 2 fees, this is never enough money to build a school, how they work with developers to enter into mitigation agreements to mitigate costs in excess of SB50 fees, these agreements are voluntary, pleased to have many developers agree that this is good for children and for the community, actively working with Mr. Saremi to enter into a mitigation agreement, appreciative of working relationship with the City especially Community & Economic Development Director Elms, and how statutory development fees will apply if the applicant doesn't agree to enter into agreement.

STEPHANIE EKSTROM, Los Banos, inquired about ability to vote on design of apartment complex after tonight's meeting, don't want value of homes to go down or the riff raff associated with higher density housing, concerned about integrity of her

neighborhood, possible sound wall, and stated that she does not support an apartment complex at this location.

Chairperson Cates stated that the action tonight is only land use entitlement to change the General Plan designation and zoning and that development would come forward at a later date.

No one else came forward to speak and the public hearing was closed.

Commissioner Giuliani thanked Mr. Larson for his feedback and appreciates their dedication to the students in the community.

Commissioner Dees thanked the applicant for investing in this community and applauded their efforts to work with the school district.

Commissioner Spada reassured the folks with concerns that the next phase for development will take into consideration the surrounding areas and encouraged them to participate in that phase of the project.

Chairperson Cates spoke of how the Planning Commission is concerned with how development occurs in our community, how it understands impacts of development on the school district, thanked Mr. Saremi for investing in our community, how infill development is very appreciated, we will be doing our due-diligence to ensure design review integrates community concerns at the phase of development, and thanked the community folks for being present tonight.

Community & Economic Development Director Elms clarified that the project site is south of approved development with 14 lots that will also be a buffer between this project site and Saratoga Street and stated that the Site Plan Review phase will include discussion of architecture, landscaping, and lighting.

Motion by Spada, seconded by Dees to adopt Planning Commission Resolution No. 2019-01 – Recommending to the Los Banos City Council Certification of Mitigated Negative Declaration (SCH #2019011005) and Mitigation Monitoring/Reporting Plan for General Plan Amendment #2018-03 and Zone Change #2018-03 for Mercey Springs Road Apartments on Approximately Five (5) Acres Located on the West Side of Mercey Springs Road (SR 165), North of Santa Barbara Street, and East of Santa Venetia Street, More Specifically Identified as Assessor's Parcel Number: 082-030-051. The motion carried by the affirmative action of all Planning Commission Members present.

Motion by Spada, seconded by Dees to adopt Planning Commission Resolution No. 2019-02 – Recommending Approval to the Los Banos City Council of General Plan Amendment #2018-03 and Zone Change #2018-03 for Approximately Five (5) Acres Located on the West Side of Mercey Springs Road (SR 165), North of Santa Barbara Street, and East of Santa Venetia Street, More Specifically Identified as Assessor's Parcel Number: 082-030-051. The motion carried by the affirmative action of all Planning Commission Members present.

ADJOURNMENT: The meeting was adjourned at the hour of 7:58 p.m.

APPROVED:

John Cates, Chairperson

ATTEST:

Sandra Benetti, Planning Technician



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Chairman Cates and Planning Commissioners
FROM: Stacy Souza Elms, Community and Economic Development Director
DATE: February 27, 2019
TYPE OF REPORT: Public Hearing
SUBJECT: Accessory Dwelling Unit Ordinance.

Recommendation:

Staff recommends that the Planning Commission adopt Resolution 2018-03.

A Resolution of the Planning Commission of the City of Los Banos Recommending to the City Council Adoption of an Ordinance of the City Council of the City of Los Banos Amending Article 30 Chapter 3 of Title 9 of the Los Banos Municipal Code Relating To Accessory Dwelling Units

Background:

Accessory dwelling units (ADUs), also known as second units, secondary living units, mother-in-law units, and granny flats, are small, self-contained living units that have their own kitchen, bedroom(s), and bathroom space. ADUs are self-contained living units that can be located within the walls of a single-family home, be an addition to an existing home, be attached to or located within a detached accessory structure, or be a standalone building on the site of an existing single-family home. ADUs provide additional housing within existing residential neighborhoods, and typically rent for less than a comparably sized apartment or condominium. The lower rents make these units more affordable to low and moderate income individuals or households.

On January 1, 2017, new housing related law went into effect that deemed ADUs units permitted by-right subject to development criteria identified in California Government Code Section 65852.2., commonly referred to as “ADU law.” ADU law made the City’s existing Second Unit Ordinance “null and void” for being inconsistent with current legislation that requires cities to follow state standards for approval of ADUs. Cities and counties are permitted to adopt local ordinances regulating ADUs as long as the ordinance is consistent with ADU law.

What is an ADU? An ADU is a secondary dwelling unit on the same parcel as the primary dwelling unit with complete independent living facilities for one or more persons and generally takes four forms:

- *Detached:* The unit is separated from the primary structure
- *Attached:* The unit is attached to the primary structure
- *Repurposed Existing Space:* Space (e.g., master bedroom) within the primary residence is converted into an independent living unit
- *Junior Accessory Dwelling Units:* Similar to repurposed space with various streamlining measures

Discussion:

A. State Law Regulating Accessory Dwelling Units

ADUs are addressed and regulated by California Government Code Sections 65852.15 and 65852.2. In these sections of State law, the State Legislature has declared that California faces a severe housing crisis and ADUs are an essential form of housing in California. As such, the law permits ADUs by-right if they meet specified location and development criteria identified in the law.

State law also permits local agencies to adopt a local ADU ordinance that imposes limited standards on ADUs that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places. While the City may adopt its own ADU ordinance, ADUs are still required to be approved ministerially. That means the ADU ordinance must contain clear, objective development requirements that are not more restrictive than permitted by State law, and if a development proposal for an ADU meets this criteria, the ADU is approved subject to a building permit with no discretionary approval by the Planning Commission. It is the State’s intent that locally adopted ADU ordinances not be so arbitrary, excessive, or burdensome so as to unreasonably restrict the construction of ADUs

The proposed Accessory Dwelling Unit (ADU) incorporates Section 65852.2 of the California Government Code requirements regarding accessory dwelling units into the City's Municipal Code establishing regulations and design standards for ADUs.

The following is a partial list of ADU regulations **required** by ADU law:

- ADUs are subject to ministerial review. If a proposed ADU meets the identified objective criteria identified in the draft ADU Ordinance, as written to be consistent with ADU law, the ADU must be approved.
- ADUs are permitted in residential zoning districts that permit single-family dwellings where there is an existing or proposed single-family dwelling on site.
- Accessory dwelling units may be attached to, detached from, or located entirely within the living area of the existing single-family dwelling.
- ADUs may be constructed over a garage and are subject to a maximum required setback of 5 feet.
- ADUs may be constructed in existing structures, including accessory structures.
- Garages may be converted to ADUs. Converted garages are not subject to setback requirements.
- A detached ADU shall not exceed 1,200 square feet or 50 percent of the living area of the primary dwelling.
- An attached ADU shall not exceed 50 percent of the living area of the primary dwelling or 1,200 square feet, whichever is less.
- One parking space is required for studio and one-bedroom units. Two parking spaces are required for two bedroom and larger units. No parking spaces are required in special circumstances, per state law. These special circumstances cover the majority of future proposed ADUs.
- Required parking spaces may be provided as tandem parking on an existing driveway.
- Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary dwelling.
- A manufactured home may be used as an accessory dwelling unit provided it meets the standards for new detached accessory dwelling units.

B. Proposed Accessory Dwelling Unit Ordinance

ADU law permits the City to adopt a local ADU ordinance that imposes limited development standards on ADUs that include, but are not limited to parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places. While the City may impose these standards on ADUs, the local ordinance may not be more restrictive than the development standards identified in ADU law.

The following is a partial list of ADU regulations proposed in the draft ADU ordinance:

- Only one accessory dwelling unit or, junior accessory dwelling unit, may be located on any residentially zoned lot that permits a single-family dwelling except as otherwise regulated or restricted by an adopted Master Plan or Development Plan.
- The owner of a parcel proposed for an accessory dwelling unit shall occupy as a principal residence either the primary dwelling or the accessory dwelling.
- An accessory dwelling unit shall not be sold independently of the primary dwelling on the parcel.
- Accessory dwelling units shall not be rented or leased for less than 30-consecutive days.
- A deed restriction shall be completed and recorded, in compliance with Section (b) below.
- A minimum parcel size shall not be required, but all applicable residential zoning district requirements regarding setbacks, coverage, and floor area ratio shall be met.
- The minimum living area of an attached accessory dwelling unit shall be 150 square feet. The minimum living area for a detached accessory dwelling unit shall be 400 square feet.
- Attached accessory dwelling units shall not exceed fifty percent (50%) of the existing dwelling unit living area of the primary dwelling, or 1,200 square feet, whichever is less. Detached accessory dwelling units shall not exceed a total floor area of 1,200 square feet. The limitations set forth above notwithstanding, an Efficiency Unit shall be allowed regardless of the size of the primary dwelling unit.
- The accessory dwelling unit shall comply with all applicable building, health, and Fire Codes.

- The accessory dwelling unit shall comply with all applicable zoning regulations (including, but not limited to, required setbacks, parking, coverage, and height limits).
- The accessory dwelling unit shall be served by the same driveway access to the street as the primary dwelling unit.
- If the accessory dwelling unit is attached to the primary dwelling unit, both the accessory dwelling unit and the primary dwelling unit must be served by either a common entrance or a separate entrance to the accessory dwelling unit and must be located on the side or at the rear of the primary dwelling unit. There shall be no exterior stairway to the second floor of a primary dwelling unit from the front of the primary dwelling unit.
- An accessory dwelling unit may not have more than two (2) bedrooms.
- The accessory dwelling unit shall be similar or compatible in character to the primary dwelling unit on the site in terms of architectural design and landscaping and shall be compatible with the neighborhood and shall incorporate the same colors and materials as the primary residence.
- A permanent foundation shall be required for all accessory dwelling units.
- A manufactured home may be used as an accessory dwelling unit provided it meets the standards for new detached accessory dwelling units in this section, including the yard, setback, height and architectural requirements. The manufactured home shall be constructed on a permanent foundation. Other types of portable or temporary housing, such as mobile homes, recreational vehicles, or tents may not be used as accessory dwelling units.
- Accessory dwelling units shall not be required to be equipped with fire sprinklers unless fire sprinkler installation is required for the primary dwelling.
- Detached accessory dwelling units shall not exceed one story and a height of 15 feet, unless the accessory dwelling unit is constructed above a garage, in which case the structure shall comply with the height limits of the underlying zoning district.

The proposed Ordinance also allows for Junior Accessory Dwelling Units (JDAUs).

Government Code Section 65852.22 provides a unique option for Junior ADUs. The statute allows local governments to adopt ordinances for JADUs, which are no more than 500 square feet and are typically bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink, but is not required to

have a private bathroom. Current law does not prohibit local governments from adopting an ordinance for a JADU, and this bill explicitly allows, not requires, a local agency to do so. If the ordinance requires a permit, the local agency shall not require additional parking or charge a fee for a water or sewer connection as a condition of granting a permit for a JADU.

JADUs bridge the gap between a roommate and a tenant by offering an interior connection between the unit and main living area. The doors between the two spaces can be secured from both sides, allowing them to be easily privatized or incorporated back into the main living area. These units share central systems, require no fire separation, and have a basic kitchen, utilizing small plug in appliances, reducing development costs. They present no additional stress on utility services or infrastructure because they simply repurpose spare bedrooms that do not expand the homes planned occupancy. By adopting a JADU ordinance, local governments can offer homeowners additional options to take advantage of underutilized space and better address its housing needs.

ENVIRONMENTAL REVIEW:

Pursuant to Public Resource Code Section 21080.17 and CEQA Guidelines Section 15282(h), the adoption of an ordinance regarding second units in a single-family, or multifamily zone by a city or county to implement provisions of Sections 65852.1 and 65852.2 of the Government Code relating

Attachments:

Proposed Draft Ordinance
FAQ ADUs
FAQ JADUs

RESOLUTION NO. 2019-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS AMENDING ARTICLE 30 CHAPTER 3 OF TITLE 9 OF THE LOS BANOS MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS

WHEREAS, the State legislature has found and declared that, among other things, allowing accessory dwelling units in single-family and multifamily zones provides additional rental housing and are an essential component in addressing housing needs in California; and;

WHEREAS, the City of Los Banos ("City") seeks to ensure that the City's zoning laws are consistent with the goals, policies and standards set forth in the City's General Plan, federal law, and state law as it relates to the regulation and approval of second dwelling units within the City; and

WHEREAS, on September 27, 2016, Governor Brown approved California Assembly Bill 2299 ("AB 2299") and California Senate Bill 1069 ("SB 1069"), which change the manner in which second dwelling units (now called "accessory dwelling units") must be regulated and processed by local agencies;

WHEREAS, effective January 1, 2017, AB 2299 and SB 1069, codified at Gov. Code §§ 65852.2, 65582.1, 65583.1, 65589.4, 65852.150, and 66412.2, adopt new requirements for local agencies' regulation of accessory dwelling units and approval of applications for accessory dwelling units; and

WHEREAS, AB 2299 and SB 1069 further provide that in the event a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of the new legislation, any conflicting provisions shall be null and void upon January 1, 2017, unless and until the agency adopts an ordinance that complies with AB 2299 and SB 1069; and

WHEREAS, the proposed amendments to the Los Banos Municipal Code are intended to ensure the City's procedural and substantive requirements for accessory dwelling units are consistent with the above-described recent changes to State law; and

WHEREAS, the Los Banos 2030 General Plan, and 2014-2023 Housing Element updates included policies and programs to support and create affordable housing, a diverse range of housing types; and

WHEREAS, the proposed ordinance is attached hereto and incorporated herein by this reference as Attachment A; and

WHEREAS, the proposed ordinance does not propose any changes to City policies or regulations that would result in a direct or indirect physical environmental impact; therefore it has been determined that the proposed ordinance is covered by the general rule that the California Environmental Quality Act applies only to projects which have the potential for causing a significant effect on the environment pursuant to CEQA guidelines Section 15061 (b)(3) and is not subject to environmental review.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Los Banos does hereby recommend that the City Council of the City of Los Banos consider and approve the attached Ordinance of The City Council of the City Of Los Banos Amending Article 30 Chapter 3 of Title 9 of the Los Banos Municipal Code Relating to Accessory Dwelling Units

The foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 27th day of February 2019, by Planning Commissioner _____ who moved its adoption, which motion was duly seconded by Planning Commissioner _____ and the Resolution adopted by the following vote:

- AYES:
- NOES:
- ABSENT:

APPROVED:

John Cates, Planning Commission Chairman

ATTEST:

Sandra Benetti, Planning Commission Secretary

Article 30. Accessory Dwelling Units

Sec. 9-3.3001 Purpose and Intent.

The California Legislature has declared that accessory dwelling units are a valuable and essential component of California's housing supply. The purpose of this Article is: to incorporate Section 65852.2 of the California Government Code requirements regarding accessory dwelling units into the City's regulations and design standards; to ensure that accessory dwelling units located in residential districts in a manner which protects the integrity of the residential district and do not adversely impact either adjacent residential parcels or the surrounding neighborhood; while providing for needed housing opportunities.

Sec. 9-3.3002 Definitions.

For the purposes of this Article, unless otherwise apparent from the context, certain words and phrases used in this Article are defined as follows:

(a) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following as required by Government Code Section 65852.2:

(1) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(2) A manufactured home, as defined in Section 18007 of the Health and Safety Code

(b) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(c) "Living area" means the interior habitable area of a dwelling unit, including basements and attics but not including a garage or an accessory building.

(d) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(e) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

Sec. 9-3.3003 Permitted Use.

(a) One accessory dwelling unit is permitted on any residentially zoned lot where there is an existing or proposed single-family dwelling on site, subject to the standards of this Article.

(b) An accessory dwelling unit is not permitted if there is more than one single-family dwelling, a duplex, or multi-family dwelling on the lot. An accessory dwelling unit may be attached or detached from the primary dwelling and may be created by the conversion of a portion of, or an addition to, the primary dwelling, accessory structure, or by the construction of a new structure.

Sec. 9-3.3004 Ministerial Zoning Clearance Certificate Requirement.

(a) Accessory Dwelling Unit Zoning Clearance Certificate Required. An approved accessory dwelling unit zoning clearance certificate shall be obtained prior to the issuance of a building permit for the construction, conversion and/or development of an accessory dwelling unit. Pursuant to California Government Code Section 65852.2, the accessory unit zoning clearance certificate shall be considered ministerial without any discretionary review or a hearing. Accessory dwelling units are exempt from the California Environmental Quality Act.

(b) Application.

(1) Applications for an accessory dwelling unit zoning clearance certificate shall be filed with the community and economic development director on forms provided by the community and economic development department.

(2) An application for an accessory dwelling unit zoning clearance certificate shall be accompanied by a fee established by resolution of the city council to cover the cost of handling the application as prescribed in this subsection.

(3) Once an application is deemed complete the application must be approved or denied within one hundred and twenty (120) days.

(4) An accessory dwelling unit zoning clearance certificate shall only be issued with finding that the plan for the accessory dwelling unit complies with all requirements of the zoning regulations contained in this Article.

(c) Existing Accessory Dwelling Units. This Article shall in no way validate an illegal accessory dwelling unit. An application for an accessory dwelling unit zoning clearance certificate may be made pursuant to the provisions of this Article to convert an illegal accessory dwelling unit into a lawful accessory dwelling unit, or to allow for the replacement, alteration or expansion of an existing nonconforming accessory dwelling unit. The conversion of an illegal accessory dwelling unit into a lawful accessory

dwelling unit, or the replacement, alteration or expansion of an existing nonconforming accessory dwelling unit shall be subject to the requirements of this Article.

Sec. 9-3.3005 Accessory Dwelling Unit Development Standards.

This Section provides standards for the establishment of accessory dwelling units, permitted as set forth under State Law AB 1866 (Chapter 1062, Statutes of 2002) Sections 65852.150 and 65852.2 of the Government Code.

(a) Development Standards. Accessory dwelling units shall comply with the following standards:

(1) Number of Units Allowed. Only one accessory dwelling unit or, junior accessory dwelling unit, may be located on any residentially zoned lot that permits a single-family dwelling except as otherwise regulated or restricted by an adopted Master Plan or Development Plan.

(2) Owner Occupancy: The owner of a parcel proposed for an accessory dwelling unit shall occupy as a principal residence either the primary dwelling or the accessory dwelling.

(3) Sale Prohibited: An accessory dwelling unit shall not be sold independently of the primary dwelling on the parcel.

(4) Short Term Rental. Accessory dwelling units shall not be rented or leased for less than 30-consecutive days.

(5) Deed Restriction: A deed restriction shall be completed and recorded, in compliance with Section (b) below.

(6) Site Requirements. A minimum parcel size shall not be required, but all applicable residential zoning district requirements regarding setbacks, coverage, and floor area ratio shall be met.

(7) Minimum size. The minimum living area of an attached accessory dwelling unit shall be 150 square feet. The minimum living area for a detached accessory dwelling unit shall be 400 square feet.

(8) Maximum size. Attached accessory dwelling units shall not exceed fifty percent (50%) of the existing dwelling unit living area of the primary dwelling, or 1,200 square feet, whichever is less. Detached accessory dwelling units shall not exceed a total floor area of 1,200 square feet. The limitations set forth above notwithstanding, an Efficiency Unit shall be allowed regardless of the size of the primary dwelling unit.

(9) Building Codes. The accessory dwelling unit shall comply with all applicable building, health, and fire Codes.

(10) Zoning Regulations. The accessory dwelling unit shall comply with all applicable zoning regulations (including, but not limited to, required setbacks, parking, coverage, and height limits).

(11) Vehicle Access. The accessory dwelling unit shall be served by the same driveway access to the street as the primary dwelling unit.

(12) Common Entrance. If the accessory dwelling unit is attached to the primary dwelling unit, both the accessory dwelling unit and the primary dwelling unit must be served by either a common entrance or a separate entrance to the accessory dwelling unit and must be located on the side or at the rear of the primary dwelling unit. There shall be no exterior stairway to the second floor of a primary dwelling unit from the front of the primary dwelling unit.

(13) Limitations on Number of Bedrooms. An accessory dwelling unit may not have more than two (2) bedrooms.

(14) Design Compatibility. The accessory dwelling unit shall be similar or compatible in character to the primary dwelling unit on the site in terms of architectural design and landscaping and shall be compatible with the neighborhood and shall incorporate the same colors and materials as the primary residence.

(15) Foundation. A permanent foundation shall be required for all accessory dwelling units.

(16) Manufactured Homes. A manufactured home may be used as an accessory dwelling unit provided it meets the standards for new detached accessory dwelling units in this section, including the yard, setback, height and architectural requirements. The manufactured home shall be constructed on a permanent foundation. Other types of portable or temporary housing, such as mobile homes, recreational vehicles, or tents may not be used as accessory dwelling units.

(17) Fire Sprinklers. Accessory dwelling units shall not be required to be equipped with fire sprinklers unless fire sprinkler installation is required for the primary dwelling

(18) Building height. Detached accessory dwelling units shall not exceed one story and a height of 15 feet, unless the accessory dwelling unit is constructed above a garage, in which case the structure shall comply with the height limits of the underlying zoning district.

(b) Deed Restriction: Prior to obtaining a building permit for an accessory dwelling unit, a deed restriction, approved by the City Attorney, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of an accessory dwelling unit identified in this Section. Said deed restriction

shall run with the land, and shall be binding upon any future owners, heirs, or assigns. A copy of the recorded deed restriction shall be filed with the City stating that:

(1) The accessory dwelling unit shall not be sold separately from the primary dwelling unit;

(2) The accessory dwelling unit is restricted to the maximum size allowed per the development standards;

(3) The accessory dwelling unit shall be considered legal only so long as either the primary residence, or the accessory dwelling unit, is occupied by the owner of record of the property.

(4) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with this provision may result in legal action against the property owner, including revocation of any right to maintain an accessory dwelling unit on the property.

Sec 9-3.3006 Accessory Dwelling Units Within Existing Single-Family Residences

(a) Notwithstanding any other provisions of this Article to the contrary, an application for a building permit to create an accessory dwelling unit will be ministerially approved within 120 days after the City receives the application if the proposed accessory dwelling unit meets all of the following conditions:

(1) The unit is contained within the existing space of a single-family residence or accessory structure;

(2) The unit has independent exterior access from the existing residence;

(3) The side and rear setbacks of the unit are sufficient for fire safety;

(4) The unit complies with applicable building and safety codes; or

(5) No other accessory dwelling units have been approved on the lot.

(b) An accessory dwelling unit meeting the criteria of this Section will not be subject to any additional parking or other development standards.

Sec 9-3.3007 Accessory Dwelling Unit Parking.

(a) In addition to the required off-street parking spaces for the primary dwelling unit, one (1) off-street parking space is required for the accessory dwelling unit. The additional parking space must comply with parking space dimensions per the applicable provisions of the Los Banos Municipal Code. The additional parking space may be covered or uncovered, and may be provided as tandem parking on a driveway that

otherwise complies with the setback and paving requirements set forth in the applicable provisions of the Los Banos Municipal Code.

(b) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the replacement spaces required for the primary dwelling unit and accessory dwelling unit may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts, that otherwise complies with the setback and paving requirements set forth in the applicable provisions of the Los Banos Municipal Code.

(c) Notwithstanding the foregoing requirements additional off-street parking spaces for an accessory dwelling unit shall not be required in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

Sec. 9-3.3008. Junior Accessory Dwelling Units.

This Section provides standards for the establishment of junior accessory dwelling units, an alternative to the standard accessory dwelling unit, permitted as set forth under State Law AB 1866 (Chapter 1062, Statutes of 2002) Sections 65852.150 and 65852.2 of the Government Code and subject to different provisions under fire safety codes based on the fact that junior accessory dwelling units do not qualify as “complete independent living facilities” given that the interior connection from the junior accessory dwelling unit to the main living area remains, therefore not redefining the single-family home status of the dwelling unit.

(a) Development Standards. Junior accessory dwelling units shall comply with the following standards:

(1) Number of Units Allowed. Only one accessory dwelling unit or, junior accessory dwelling unit, may be located on any residentially zoned lot that permits a

single-family dwelling except as otherwise regulated or restricted by an adopted Master Plan or Development Plan. A junior accessory dwelling unit may only be located on a lot which already contains one legal single-family dwelling.

(2) Owner Occupancy: The owner of a parcel proposed for a junior accessory dwelling unit shall occupy as a principal residence either the primary dwelling or the accessory dwelling.

(3) Sale Prohibited: A junior accessory dwelling unit shall not be sold independently of the primary dwelling on the parcel.

(4) Deed Restriction: A deed restriction shall be completed and recorded, in compliance with Section (b) below.

(5) Location of Junior Accessory Dwelling Unit: A junior accessory dwelling unit must be created within the existing walls of an existing primary dwelling, and must include conversion of an existing bedroom.

(6) Maximum unit size, 500 square feet.

(7) Setbacks as required by the primary dwelling unit.

(8) Separate Entry Required: A separate exterior entry shall be provided to serve a junior accessory dwelling unit.

(9) Interior Entry Remains: The interior connection to the main living area must be maintained, but a second door may be added for sound attenuation.

(10) Kitchen Requirements: The junior accessory dwelling unit shall include an efficiency kitchen that meets the minimum building code standards, requiring and limited to the following components:

(i) A sink with a maximum waste line diameter of one-and-a-half (1.5) inches,

(ii) A cooking facility with appliance which do not require electrical service greater than one-hundred-and-twenty (120) volts or natural or propane gas (no gas or 220V circuits are allowed), and

(iii) A food preparation counter and storage cabinets that are reasonable to size of the unit.

(11) Shared Bath: The JADU may share a bath with the primary dwelling unit or have its own bath.

(12) Parking: No additional parking is required beyond that required when the existing primary dwelling was constructed.

(b) Deed Restriction: Prior to obtaining a building permit for a junior accessory dwelling unit, a deed restriction, approved by the City Attorney, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a junior accessory dwelling unit identified in this Section. Said deed restriction shall run with the land, and shall be binding upon any future owners, heirs, or assigns. A copy of the recorded deed restriction shall be filed with the City stating that:

(1) The junior accessory dwelling unit shall not be sold separately from the primary dwelling unit;

(2) The junior accessory dwelling unit is restricted to the maximum size allowed per the development standards;

(3) The junior accessory dwelling unit shall be considered legal only so long as either the primary residence, or the accessory dwelling unit, is occupied by the owner of record of the property.

(4) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with this provision may result in legal action against the property owner, including revocation of any right to maintain a junior accessory dwelling unit on the property.

(e) No Fire Sprinklers and Fire Attenuation: the City shall not require fire sprinkler or fire attenuation specifications for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard may be assessed.

Sec. 9-3.3009 Utilities, Connection Fees, Impact Fees.

(a) An accessory dwelling unit that is contained within the existing space of a single family residence or accessory structure shall not be considered a new residential use for purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service, or impact fees. No new or separate utility connection between the accessory dwelling unit and the utility shall be required.

(b) All other accessory dwelling units other than those mentioned in subsection (a) above, may require a new or separate utility connection between the accessory dwelling unit and the utility. Any connection fee or capacity charge shall be proportionate to the burden placed on the water and sewer systems due to unit size or number of plumbing fixtures. All applicable public service and impact fees shall be paid prior to occupancy in accordance with Government Code section 66000 et seq. and section 66012 et seq., as the same may be amended.

(c) All utility installations on the lot shall be underground.

(d) No accessory dwelling unit shall be allowed if the Building Official determines that there is not adequate water or sewer service to the property.

Sec. 9-3.3010. Appeal.

The decision of the Community and Economic Development Director or designee may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this Chapter.

Frequently Asked Questions: Accessory Dwelling Units

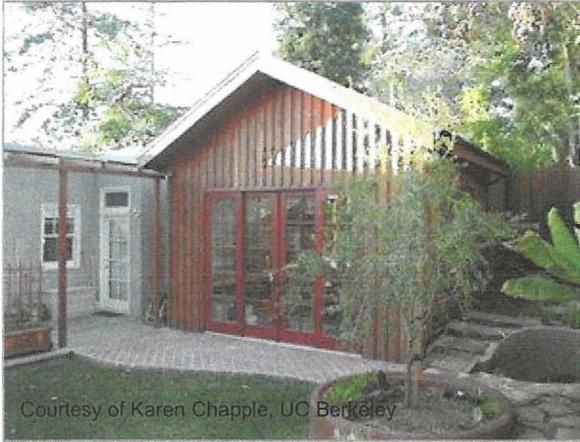
Should an Ordinance Encourage the Development of ADUs?

Yes, ADU law and recent changes intend to address barriers, streamline approval and expand potential capacity for ADUs recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment and implementation of local ADU ordinances must be carried out consistent with Government Code Section 65852.150:

(a) The Legislature finds and declares all of the following:

- (1) Accessory dwelling units are a valuable form of housing in California.*
 - (2) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.*
 - (3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.*
 - (4) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.*
 - (5) California faces a severe housing crisis.*
 - (6) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.*
 - (7) Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.*
 - (8) Accessory dwelling units are, therefore, an essential component of California's housing supply.*
- (b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.*

Are Existing Ordinances Null and Void?



Yes, any local ordinance adopted prior to January 1, 2017 that is not in compliance with the changes to ADU law will be null and void. Until an ordinance is adopted, local governments must apply “state standards” (See Attachment 4 for State Standards checklist). In the absence of a local ordinance complying with ADU law, local review must be limited to “state standards” and cannot include additional requirements such as those in an existing ordinance.

Are Local Governments Required to Adopt an Ordinance?

No, a local government is **not required** to adopt an ordinance. ADUs built within a jurisdiction that lacks a local ordinance must comply with state standards (See Attachment 4). Adopting an ordinance can occur through different forms such as a new ordinance, amendment to an existing ordinance, separate section or special regulations within the zoning code or integrated into the zoning code by district. However, the ordinance should be established legislatively through a public process and meeting and not through internal administrative actions such as memos or zoning interpretations.

Can a Local Government Preclude ADUs?

No local government cannot preclude ADUs.

Can a Local Government Apply Development Standards and Designate Areas?

Yes, local governments may apply development standards and may designate where ADUs are permitted (GC Sections 65852.2(a)(1)(A) and (B)). However, ADUs within existing structures must be allowed in all single family residential zones.

For ADUs that require an addition or a new accessory structure, development standards such as parking, height, lot coverage, lot size and maximum unit size can be established with certain limitations. ADUs can be avoided or allowed through an ancillary and separate discretionary process in areas with health and safety risks such as high fire hazard areas. However, standards and allowable areas must not be designed or applied in a manner that burdens the development of ADUs and should maximize the potential for ADU development. Designating areas where ADUs are allowed should be approached primarily on health and safety issues including water, sewer, traffic flow and public safety. Utilizing approaches such as restrictive overlays, limiting ADUs to larger lot sizes, burdensome lot coverage and setbacks and particularly concentration or distance requirements (e.g., no less than 500 feet between ADUs) may unreasonably restrict the ability of the homeowners to create ADUs, contrary to the intent of the Legislature.

Requiring large minimum lot sizes and not allowing smaller lot sizes for ADUs can severely restrict their potential development. For example, large minimum lot sizes for ADUs may constrict capacity throughout most of the community. Minimum lot sizes cannot be applied to ADUs within existing structures and could be considered relative to health and safety concerns such as areas on septic systems. While larger lot sizes might be targeted for various reasons such as ease of compatibility, many tools are available (e.g., maximum unit size, maximum lot coverage, minimum setbacks, architectural and landscape requirements) that allows ADUs to fit well within the built environment.

Can a Local Government Adopt Less Restrictive Requirements?

Yes, ADU law is a minimum requirement and its purpose is to encourage the development of ADUs. Local governments can take a variety of actions beyond the statute that promote ADUs such as reductions in fees, less restrictive parking or unit sizes or amending general plan policies.

Santa Cruz has confronted a shortage of housing for many years, considering its growth in population from incoming students at UC Santa Cruz and its proximity to Silicon Valley. The city promoted the development of ADUs as critical infill-housing opportunity through various strategies such as creating a manual to promote ADUs. The manual showcases prototypes of ADUs and outlines city zoning laws and requirements to make it more convenient for homeowners to get information. The City found that homeowners will take time to develop an ADU only if information is easy to find, the process is simple, and there is sufficient guidance on what options they have in regards to design and planning.

The city set the minimum lot size requirement at 4,500 sq. ft. to develop an ADU in order to encourage more homes to build an ADU. This allowed for a majority of single-family homes in Santa Cruz to develop an ADU. For more information, see <http://www.cityofsantacruz.com/departments/planning-and-community-development/programs/accessory-dwelling-unit-development-program>.

Can Local Governments Establish Minimum and Maximum Unit Sizes?

Yes, a local government may establish minimum and maximum unit sizes (GC Section 65852.2(c)). However, like all development standards (e.g., height, lot coverage, lot size), unit sizes should not burden the development of ADUs. For example, setting a minimum unit size that substantially increases costs or a maximum unit size that unreasonably restricts opportunities would be inconsistent with the intent of the statute. Typical maximum unit sizes range from 800 square feet to 1,200 square feet. Minimum unit size must at least allow for an efficiency unit as defined in Health and Safety Code Section 17958.1.

ADU law requires local government approval if meeting various requirements (GC Section 65852.2(a)(1)(D)), including unit size requirements. Specifically, attached ADUs shall not exceed 50 percent of the existing living area or 1,200 square feet and detached ADUs shall not exceed 1,200 square feet. A local government may choose a maximum unit size less than 1,200 square feet as long as the requirement is not burdensome on the creation of ADUs.

Can ADUs Exceed General Plan and Zoning Densities?

An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit. Minimum lot sizes must not be doubled (e.g., 15,000 square feet) to account for an ADU. Further, local governments could elect to allow more than one ADU on a lot.

New developments can increase the total number of affordable units in their project plans by integrating ADUs. Aside from increasing the total number of affordable units, integrating ADUs also promotes housing choices within a development. One such example is the Cannery project in Davis, CA. The Cannery project includes 547 residential units with up to 60 integrated ADUs. ADUs within the Cannery blend in with surrounding architecture, maintaining compatibility with neighborhoods and enhancing community character. ADUs are constructed at the same time as the primary single-family unit to ensure the affordable rental unit is available in the housing supply concurrent with the availability of market rate housing.

How Are Fees Charged to ADUs?

All impact fees, including water, sewer, park and traffic fees must be charged in accordance with the Fee Mitigation Act, which requires fees to be proportional to the actual impact (e.g., significantly less than a single family home).

Fees on ADUs, must proportionately account for impact on services based on the size of the ADU or number of plumbing fixtures. For example, a 700 square foot new ADU with one bathroom that results in less landscaping should be charged much less than a 2,000 square foot home with three bathrooms and an entirely new landscaped parcel which must be irrigated. Fees for ADUs should be significantly less and should account for a lesser impact such as lower sewer or traffic impacts.

What Utility Fee Requirements Apply to ADUs?

Cities and counties cannot consider ADUs as new residential uses when calculating connection fees and capacity charges.

Where ADUs are being created within an existing structure (primary or accessory), the city or county cannot require a new or separate utility connections for the ADU and cannot charge any connection fee or capacity charge.

For other ADUs, a local agency may require separate utility connections between the primary dwelling and the ADU, but any connection fee or capacity charge must be proportionate to the impact of the ADU based on either its size or the number of plumbing fixtures.

What Utility Fee Requirements Apply to Non-City and County Service Districts?

All local agencies must charge impact fees in accordance with the Mitigation Fee Act (commencing with Government Code Section 66000), including in particular Section 66013, which requires the connection fees and capacity charges to be proportionate to the burden posed by the ADU. Special districts and non-city and county service districts must account for the lesser impact related to an ADU and should base fees on unit size or number of plumbing fixtures. Providers should consider a proportionate or sliding scale fee structures that address the smaller size and lesser impact of ADUs (e.g., fees per square foot or fees per fixture). Fee waivers or deferrals could be considered to better promote the development of ADUs.

Do Utility Fee Requirements Apply to ADUs within Existing Space?

No, where ADUs are being created within an existing structure (primary or accessory), new or separate utility connections and fees (connection and capacity) must not be required.

Does “Public Transit” Include within One-half Mile of a Bus Stop and Train Station?

Yes, “public transit” may include a bus stop, train station and paratransit if appropriate for the applicant. “Public transit” includes areas where transit is available and can be considered regardless of tighter headways (e.g., 15 minute intervals). Local governments could consider a broader definition of “public transit” such as distance to a bus route.

Can Parking Be Required Where a Car Share Is Available?

No, ADU law does not allow parking to be required when there is a car share located within a block of the ADU. A car share location includes a designated pick up and drop off location. Local governments can measure a block from a pick up and drop off location and can decide to adopt broader distance requirements such as two to three blocks.

Is Off Street Parking Permitted in Setback Areas or through Tandem Parking?

Yes, ADU law deliberately reduces parking requirements. Local governments may make specific findings that tandem parking and parking in setbacks are infeasible based on specific site, regional topographical or fire and life safety conditions or that tandem parking or parking in setbacks is not permitted anywhere else in the jurisdiction. However, these determinations should be applied in a manner that does not unnecessarily restrict the creation of ADUs.

Local governments must provide reasonable accommodation to persons with disabilities to promote equal access housing and comply with fair housing laws and housing element law. The reasonable accommodation procedure must provide exception to zoning and land use regulations which includes an ADU ordinance. Potential exceptions are not limited and may include development standards such as setbacks and parking requirements and permitted uses that further the housing opportunities of individuals with disabilities.

Is Covered Parking Required?

No, off street parking must be permitted through tandem parking on an existing driveway, unless specific findings are made.

Is Replacement Parking Required When the Parking Area for the Primary Structure Is Used for an ADU?

Yes, but only if the local government requires off-street parking to be replaced in which case flexible arrangements such as tandem, including existing driveways and uncovered parking are allowed. Local governments have an opportunity to be flexible and promote ADUs that are being created on existing parking space and can consider not requiring replacement parking.

Are Setbacks Required When an Existing Garage Is Converted to an ADU?

No, setbacks must not be required when a garage is converted or when existing space (e.g., game room or office) above a garage is converted. Rear and side yard setbacks of no more than five feet are required when new space is added above a garage for an ADU. In this case, the setbacks only apply to the added space above the garage, not the existing garage and the ADU can be constructed wholly or partly above the garage, including extending beyond the garage walls.

Also, when a garage, carport or covered parking structure is demolished or where the parking area ceases to exist so an ADU can be created, the replacement parking must be allowed in any “configuration” on the lot, “...including, but not limited to, covered spaces, uncovered spaces, or tandem spaces, or....” Configuration can be applied in a flexible manner to not burden the creation of ADUs. For example, spatial configurations like tandem on existing driveways in setback areas or not requiring excessive distances from the street would be appropriate.

Are ADUs Permitted in Existing Residence or Accessory Space?

Yes, ADUs located in single family residential zones and existing space of a single family residence or accessory structure must be approved regardless of zoning standards (Section 65852.2(a)(1)(B)) for ADUs, including locational requirements (Section 65852.2(a)(1)(A)), subject to usual non-appealable ministerial building permit requirements. For example, ADUs in existing space does not necessitate a zoning clearance and must not be limited to certain zones or areas or subject to height, lot size, lot coverage, unit size, architectural review, landscape or parking requirements. Simply, where a single family residence or accessory structure exists in any single family residential zone, so can an ADU. The purpose is to streamline and expand potential for ADUs where impact is minimal and the existing footprint is not being increased.

Zoning requirements are not a basis for denying a ministerial building permit for an ADU, including non-conforming lots or structures. The phrase, “within the existing space” includes areas within a primary home or within an attached or detached accessory structure such as a garage, a carriage house, a pool house, a rear yard studio and similar enclosed structures.

Are Owner Occupants Required?

No, however, a local government can require an applicant to be an owner occupant. The owner may reside in the primary or accessory structure. Local governments can also require the ADU to not be used for short term rentals (terms lesser than 30 days). Both owner occupant use and prohibition on short term rentals can be required on the same property. Local agencies which impose this requirement should require recordation of a deed restriction regarding owner occupancy to comply with GC Section 27281.5

Are Fire Sprinklers Required for ADUs?

Depends, ADUs shall not be required to provide fire sprinklers if they are not or were not required of the primary residence. However, sprinklers can be required for an ADU if required in the primary structure. For example, if the primary residence has sprinklers as a result of an existing ordinance, then sprinklers could be required in the ADU. Alternative methods for fire protection could be provided.

If the ADU is detached from the main structure or new space above a detached garage, applicants can be encouraged to contact the local fire jurisdiction for information regarding fire sprinklers. Since ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, students, the elderly, in-home health care providers, the disabled, and others, the fire departments want to ensure the safety of these populations as well as the safety of those living in the primary structure. Fire Departments can help educate property owners on the benefits of sprinklers, potential resources and how they can be installed cost effectively. For example, insurance rates are typically 5 to 10 percent lower where the unit is sprinklered. Finally, other methods exist to provide additional fire protection. Some options may include additional exits, emergency escape and rescue openings, 1 hour or greater fire-rated assemblies, roofing materials and setbacks from property lines or other structures.

Is Manufactured Housing Permitted as an ADU?

Yes, an ADU is any residential dwelling unit with independent facilities and permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU includes an efficiency unit (Health and Safety Code Section 17958.1) and a manufactured home (Health and Safety Code Section 18007).

Health and Safety Code Section 18007(a) “**Manufactured home,**” for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

Can an Efficiency Unit Be Smaller than 220 Square Feet?

Yes, an efficiency unit for occupancy by no more than two persons, by statute (Health and Safety Code Section 17958.1), can have a minimum floor area of 150 square feet and can also have partial kitchen or bathroom facilities, as specified by ordinance or can have the same meaning specified in the Uniform Building Code, referenced in the Title 24 of the California Code of Regulations.

The 2015 International Residential Code adopted by reference into the 2016 California Residential Code (CRC) allows residential dwelling units to be built considerably smaller than an Efficiency Dwelling Unit (EDU). Prior to this code change an EDU was required to have a minimum floor area not less than 220 sq. ft unless modified by local ordinance in accordance with the California Health and Safety Code which could allow an EDU to be built no less than 150 sq. ft. For more information, see HCD’s Information Bulletin at <http://www.hcd.ca.gov/codes/manufactured-housing/docs/ib2016-06.pdf> .

Does ADU Law Apply to Charter Cities and Counties?

Yes. ADU law explicitly applies to “local agencies” which are defined as a city, county, or city and county whether general law or chartered (Section 65852.2(i)(2)).

Do ADUs Count toward the Regional Housing Need Allocation?

Yes, local governments may report ADUs as progress toward Regional Housing Need Allocation pursuant to Government Code Section 65400 based on the actual or anticipated affordability. See below frequently asked questions for JADUs for additional discussion.

Must ADU Ordinances Be Submitted to the Department of Housing and Community Development?

Yes, ADU ordinances must be submitted to the State Department of Housing and Community Development within 60 days after adoption, including amendments to existing ordinances. However, upon submittal, the ordinance is not subject to a Department review and findings process similar to housing element law (GC Section 65585)

Frequently Asked Questions: Junior Accessory Dwelling Units

Is There a Difference between ADU and JADU?



Courtesy of Lilypad Homes and Photo Credit to Jocelyn Knight

Yes, AB 2406 added Government Code Section 65852.22, providing a unique option for Junior ADUs. The bill allows local governments to adopt ordinances for JADUs, which are no more than 500 square feet and are typically bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink, but is not required to have a private bathroom. Current law does not prohibit local governments from adopting an ordinance for a JADU, and this bill explicitly allows, not requires, a local agency to do so. If the ordinance requires a permit, the local agency shall not require additional parking or charge a fee for a water or sewer connection as a condition of granting a permit for a JADU. For more information, see below.

ADUs and JADUs

REQUIREMENTS	ADU	JADU
Maximum Unit Size	Yes, generally up to 1,200 Square Feet or 50% of living area	Yes, 500 Square Foot Maximum
Kitchen	Yes	Yes
Bathroom	Yes	No, Common Sanitation is Allowed
Separate Entrance	Depends	Yes
Parking	Depends, Parking May Be Eliminated and Cannot Be Required Under Specified Conditions	No, Parking Cannot Be Required
Owner Occupancy	Depends, Owner Occupancy <i>May</i> Be Required	Yes, Owner Occupancy Is Required
Ministerial Approval Process	Yes	Yes
Prohibition on Sale of ADU	Yes	Yes

Why Adopt a JADU Ordinance?

JADUs offer the simplest and most affordable housing option. They bridge the gap between a roommate and a tenant by offering an interior connection between the unit and main living area. The doors between the two spaces can be secured from both sides, allowing them to be easily privatized or incorporated back into the main living area. These units share central systems, require no fire separation, and have a basic kitchen, utilizing small plug in appliances, reducing development costs. This provides flexibility and an insurance policy in homes in case additional income or housing is needed. They present no additional stress on utility services or infrastructure because they simply repurpose spare bedrooms that do not expand the homes planned occupancy. No additional address is required on the property because an interior connection remains. By adopting a JADU ordinance, local governments can offer homeowners additional options to take advantage of underutilized space and better address its housing needs.

Can JADUs Count towards the RHNA?

Yes, as part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally, a JADU, including with shared sanitation facilities, that meets the census definition and is reported to the Department of Finance as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level. Local governments can track actual or anticipated affordability to assure the JADU is counted to the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit application.

A housing unit is a house, an apartment, a mobile home or trailer, a group of rooms, or a single room that is occupied, or, if vacant, is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

Can the JADU Be Sold Independent of the Primary Dwelling?

No, the JADU cannot be sold separate from the primary dwelling.

Are JADUs Subject to Connection and Capacity Fees?

No, JADUs shall not be considered a separate or new dwelling unit for the purposes of fees and as a result should not be charged a fee for providing water, sewer or power, including a connection fee. These requirements apply to all providers of water, sewer and power, including non-municipal providers.

Local governments may adopt requirements for fees related to parking, other service or connection for water, sewer or power, however, these requirements must be uniform for all single family residences and JADUs are not considered a new or separate unit.

Are There Requirements for Fire Separation and Fire Sprinklers?

Yes, a local government may adopt requirements related to fire and life protection requirements. However, a JADU shall not be considered a new or separate unit. In other words, if the primary unit is not subject to fire or life protection requirements, then the JADU must be treated the same.



City of
Los Banos
At the Crossroads of California

**COMMUNITY AND ECONOMIC DEVELOPMENT
DEPARTMENT**

Date: February 15, 2019

Regarding: Notice of Public Hearing

Proposal: Proposed Ordinance – Accessory Dwelling Units

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider a recommendation to the Los Banos City Council to adopt an ordinance to establish the regulation and processing of accessory dwelling units. The proposed ordinance is exempt from the California Environmental Quality Act (CEQA), in that the action is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and it can be seen with certainty that there is no possibility that the adoption of the ordinance would have a significant effect on the environment. *CEQA Guidelines Section 15061(b)(3)*.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos Planning Commission on Wednesday, February 27, 2019 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 J Street. Questions regarding the above-referenced item may be directed to Stacy Souza Elms, Community and Economic Development Director, at City Hall or at (209) 827-2433.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Ordinance in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing per Government Code Section 65009.

Additional information may be obtained from Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Stacy Souza Elms
Community and Economic Development Director