



PLANNING COMMISSION REGULAR MEETING AGENDA

Thursday, November 2, 2023 | 6:00 PM

CITY COUNCIL CHAMBERS, CITY HALL
7351 ROSANNA STREET, GILROY, CA 95020

Chair: Manny Bhandal:
manny.bhandal@cityofgilroy.org

Vice Chair: Annedore Kushner:
annedore.kushner@cityofgilroy.org

Commissioners:

Stefanie Elle:
stefanie.elle@cityofgilroy.org
Joan Lewis:
joan.lewis@cityofgilroy.org

Adriana Leongardt:
adriana.leongardt@cityofgilroy.org
Kelly Ramirez:
kelly.ramirez@cityofgilroy.org

Terence Fugazzi:
terence.fugazzi@cityofgilroy.org

Staff Liaison: Sharon Goei, Community Development Director | sharon.goei@cityofgilroy.org

Written comments can be submitted by email to planningdivision@cityofgilroy.org. Please note that written comments will not be read out loud, but will be part of the written record.

Comments by the public will be taken on any agenda item before action is taken by the Planning Commission. Persons speaking on any matter are asked to state their name and address for the record. Public testimony is subject to reasonable regulations, including but not limited to time restrictions on particular issues and for each individual speaker. A minimum of 12 copies of materials should be provided to the Clerk for distribution to the Commission and Staff. Public comments are limited to no more than three-minutes, at the Chair's discretion.

Comments on any agenda item may be emailed to the Planning Division at planningdivision@cityofgilroy.org or mailed to the City of Gilroy, Community Development Department at City Hall, 7351 Rosanna Street, Gilroy, CA 95020. Comments received by the Planning Division by 1:00 pm on the day of a Planning Commission meeting will be distributed to the Planning Commissioners prior to or at the meeting and are available for public inspection at the Planning Division counter at City Hall, 7351 Rosanna Street. Any correspondence received will be incorporated into the meeting record. Items received after the 1:00 pm deadline will be provided to the Planning Commission as soon as practicable.

In compliance with the American Disabilities Act (ADA), the City will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk 72 hours prior to the meeting at (408) 846-0491. A sound enhancement system is available in the City Council Chambers.

If you challenge any planning or land use decision made at this meeting in court, you may be limited to raising only those issues you or someone else raised at the public hearing held at this meeting, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing. Please take notice that the time within which to seek judicial review of any final administrative determination reached at this meeting is governed by Section 1094.6 of the California Code of Civil Procedure.

Persons who wish to speak on matters set for Public Hearing will be heard when the presiding officer calls for comments from those persons who are in support of or in opposition thereto. After persons have spoken, the hearing is closed and brought to the Planning Commission level for discussion and action. There is no further comment permitted from the audience unless requested by the Planning Commission.

A Closed Session may be called during this meeting pursuant to Government Code Section 54956.9(b)(1) if a point has been reached where, in the opinion of the legislative body of the City on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the City.

Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection with the agenda packet in the lobby of Administration at City Hall, 7351 Rosanna Street during normal business hours. These materials are also available with the agenda packet on the City website at www.cityofgilroy.org

KNOW YOUR RIGHTS UNDER THE GILROY OPEN GOVERNMENT ORDINANCE.

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, task forces, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE, TO RECEIVE A FREE COPY OF THE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION STAFF AT (408) 846-0204 or by email at cityclerk@cityofgilroy.org.

1. **OPENING**
2. **PLEDGE OF ALLEGIANCE**
3. **REPORT ON POSTING THE AGENDA AND ROLL CALL**
4. **PUBLIC COMMENTS**

(Three-minute time limit). This portion of the meeting is reserved for persons desiring to address the Planning Commission on matters not on the agenda. The law does not permit the Planning Commission action or extended discussion of any item not on the agenda except under special circumstances. Comments on any agenda item may be emailed to the Planning Division at planningdivision@cityofgilroy.org or mailed to Community Development Department at City Hall, 7351 Rosanna Street, Gilroy, CA 95020. Comments received by the Planning Division by 1:00pm on the day of a Planning Commission meeting will be distributed to the Planning Commission prior to or at the meeting and available for public inspection with the agenda packet located in the lobby of Planning Division at City Hall, 7351 Rosanna Street prior to the meeting. Any correspondences received will be incorporated into the meeting record. Items received after 1:00pm deadline will be provided to the Planning Commission as

soon as practicable. All statements that require a response will be referred to staff for reply in writing.

PUBLIC HEARINGS FOR RELATED PROJECT APPLICATIONS WILL BE HEARD CONCURRENTLY AND ACTION WILL BE TAKEN INDIVIDUALLY. COMPANION PROJECTS UNDER NEW BUSINESS WILL BE TAKEN UP FOR ACTION PRIOR TO, OR IMMEDIATELY FOLLOWING THE RELATED PUBLIC HEARING. THIS REQUIRES DEVIATION IN THE ORDER OF BUSINESS AS NOTED WITHIN THE AGENDA.

5. CONSENT AGENDA

5.1. October 5, 2023 Planning Commission Meeting Minutes

6. PUBLIC HEARINGS

6.1. Zoning Ordinance Amendment to Modify Chapter 30, Article LIV of the Gilroy City Code Relating to Accessory Dwelling Units (Z 23-05)

1. Staff Report: Erin Freitas, Planner II
2. Public Hearing
3. Close Public Hearing
4. Disclosure of Ex-Parte Communication
5. Possible Action:

Staff has analyzed the proposed project, and recommends that the Planning Commission:

a. Recommend that the City Council, based on its independent analysis, find that approval of the Gilroy City Code (Zoning) amendment is statutorily exempt from review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15282(h) for the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Section 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code; and

b. Recommend that the City Council adopt an Ordinance (Z 23-05), approving amendments to the Gilroy City Code, Chapter 30 (Zoning), Article LIV regarding Accessory Dwelling Units.

7. NEW BUSINESS

7.1. Planning Commission Annual Presentation to Council (draft presentation will be provided at the meeting)

8. INFORMATIONAL ITEMS

8.1. Planning Division Staff Approvals

9. PLANNING DIVISION REPORT

10. ASSISTANT CITY ATTORNEY REPORT

11. ADJOURNMENT To the Next Meeting of December 7, 2023 at 6:00 PM

**City of Gilroy
Planning Commission
Regular Meeting Minutes
Thursday, October 5, 2023 | 6:00 PM**

1. OPENING

Tonight's meeting was called to order by Chair Bhandal at 6:00 p.m.

2. PLEDGE OF ALLEGIANCE

Chair Bhandal led the pledge of allegiance.

3. REPORT ON POSTING THE AGENDA AND ROLL CALL

The agenda was posted on Thursday, September 28, 2023 at 7:36 p.m.

Attendance	Attendee Name
Present	Stefanie Elle, Commissioner Terence Fugazzi, Commissioner Adriana Leongardt, Commissioner Kelly Ramirez, Commissioner Annedore Kushner, Vice Chair Manny Bhandal, Chair
Absent	Joan Lewis, Commissioner

4. PUBLIC COMMENTS

Chair Bhandal opened public comment for items not on the agenda.

There being no speaker, Chair Bhandal closed public comment for items not on the agenda.

5. CONSENT AGENDA

5.1. September 7, 2023 Planning Commission Meeting Minutes

Motion made by Chair Bhandal; seconded by Commissioner Fugazzi to approve the consent agenda.

RESULT: Pass [5 – 0]

MOVER: Chair Bhandal

SECONDER: Commissioner Fugazzi

AYES: Commissioner Elle, Fugazzi, Leongardt, Vice Chair Kushner, and Chair Bhandal

ABSTAIN: Commissioner Ramirez

ABSENT: Commissioner Lewis

6. PUBLIC HEARINGS

6.1. Proposed Architectural and Site Review for E&P Properties New Warehouse Building located at 201 and 221 Yamane Drive, Application No. AS 22-16. CONTINUED ITEM

1. Staff Report:
Melissa Durkin, Planner II
2. Public Hearing
Chair Bhandal opened the item to public hearing.
3. Close Public Hearing
There being no speakers, Chair Bhandal closed the public hearing.
4. Disclosure of Ex-Parte Communication
None.
5. Possible Action:
Staff has analyzed the proposed project, and recommends that the Planning Commission:
 - a. Based on its independent analysis, determine this project is exempt from further environmental review pursuant to State CEQA Guidelines sections 15168 (Projects within the Scope of a Program EIR) and 15183 (Projects Consistent with a Community Plan or Zoning); and
 - b. Adopt a resolution approving proposed Architectural and Site Review permit application AS 22-16.

Motion made by Commissioner Elle; seconded by Commissioner Fugazzi to:

- a. Based on its independent analysis, determine this project is exempt from further environmental review pursuant to State CEQA Guidelines sections 15168 (Projects within the Scope of a Program EIR) and 15183 (Projects Consistent with a Community Plan or Zoning); and
- b. Adopt a resolution approving proposed Architectural and Site Review permit application AS 22-16.

With the following amendments:

1. Authorize the Community Development Director to investigate whether parking can be moved to the west property boundary. If the parking can be moved to this area, the Community development Director shall make an administrative change to the approved plan.
2. Specify that male Chinese Pistache trees shall be planted. If unavailable, a different non-toxic tree shall be selected; and
3. Replace the Noel Grevillea with a non-toxic alternative.

RESULT: Pass [6 – 0]

MOVER: Commissioner Elle

SECONDER: Commissioner Fugazzi

AYES: Commissioner Elle, Fugazzi, Leongardt, Ramirez, Vice Chair Kushner, and Chair Bhandal

ABSENT: Commissioner Lewis

6.2. Proposed Architectural and Site Review for Endeavour Storage New Warehouse and Light Industrial Building located at 210 Las Animas Avenue, Application No. AS 21-23

1. Staff Report:
Melissa Durkin, Planner II
2. Public Hearing
Chair Bhandal opened the item to public hearing.
3. Close Public Hearing
There being no speakers, Chair Bhandal closed the public hearing.
4. Disclosure of Ex-Parte Communication
None.
5. Possible Action:
Staff has analyzed the proposed project and recommends that the Planning Commission:
 - a. Based on its independent analysis, determine this project is exempt from further environmental review pursuant to State CEQA Guidelines section 15332 (Class 32); and
 - b. Adopt a resolution approving proposed Architectural and Site Review permit application AS 21-23.

Motion made by Commissioner Elle; seconded by Chair Bhandal to:

- a. Based on its independent analysis, determine this project is exempt from further environmental review pursuant to State CEQA Guidelines section 15332 (Class 32); and
- b. Adopt a resolution approving proposed Architectural and Site Review permit application AS 21-23.

With the following amendments:

1. Specify that male Chinese Pistache trees shall be planted. If unavailable, a different non-toxic tree shall be selected; and
2. Replace all toxic plants, including Wilga, Yew, Toyon, White Oleander, and any other toxic plants, with non-toxic alternatives.

RESULT: Pass [6 – 0]

MOVER: Commissioner Elle

SECONDER: Chair Bhandal

AYES: Commissioner Elle, Fugazzi, Leongardt, Ramirez, Vice Chair Kushner, Chair Bhandal,

ABSENT: Commissioner Lewis

7. NEW BUSINESS

7.1. Planning Commissioner Training – An overview of state housing laws (presentation will be provided at the meeting)

City Attorney, Andy Faber, and Assistant City Attorney, Jolie Houston, provided the Commission with a training on state housing laws and responded to questions posed.

7.2. Planning Commission Annual Presentation to Council (draft presentation will be provided at the meeting)

Community Development Director, Sharon Goei, and Customer Service

Manager, Cindy McCormick, presented the Commission with a draft of the Planning Commission annual presentation and received feedback from the Commission.

8. INFORMATIONAL ITEMS

8.1. Planning Division Staff Approvals

Community Development Director, Sharon Goei, informed the Commission that there was one Planning project approval, Application No. AS 23-12, for a parking lot located at 7601 Monterey Street.

9. PLANNING DIVISION REPORT

Community Development Director, Sharon Goei, advised the Commission to RSVP by November 2, 2023 to the email invitation sent by the City Clerk's Office on October 4, 2023, for the Commission and Volunteer Appreciation Dinner on November 9, 2023.

Customer Service Manager, Cindy McCormick, advised the Commission that on Monday November 6, 2023, staff will be presenting an introduction to the City Council on inclusionary housing. McCormick also informed the Commission that there will be a community workshop the following day, November 7, 2023, at 6:00 p.m. in the Council Chambers.

10. ASSISTANT CITY ATTORNEY REPORT

None.

11. ADJOURNMENT To the Next Meeting of Thursday, November 2, 2023 at 6:00 PM

Chair Bhandal adjourned the meeting at 8:49 p.m.

Ariana Fabian

Ariana Fabian, Planning Technician



Community Development Department

Sharon Goei
DIRECTOR

7351 Rosanna Street, Gilroy, CA 95020-6197
Telephone: (408) 846-0451 | Fax: (408) 846-0429
cityofgilroy.org | planningdivision@cityofgilroy.org

DATE: November 2, 2023
TO: Planning Commission
FROM: Erin Freitas
SUBJECT: Zoning Ordinance Amendment to Modify Chapter 30, Article LIV of the
Gilroy City Code Relating to Accessory Dwelling Units (Z 23-05)

RECOMMENDATION:

Staff has analyzed the proposed project, and recommends that the Planning Commission:

- a. Recommend that the City Council, based on its independent analysis, find that approval of the Gilroy City Code (Zoning) amendment is statutorily exempt from review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15282(h) for the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Section 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code; and
- b. Recommend that the City Council adopt an Ordinance (Z 23-05), approving amendments to the Gilroy City Code, Chapter 30 (Zoning), Article LIV regarding Accessory Dwelling Units.

EXECUTIVE SUMMARY:

On September 28, 2022, Governor Newsom signed Senate Bill (SB) 897 and Assembly Bill (AB) 2221 and on October 11, 2023 signed Assembly Bill (AB) 976 amending Section 65852.2 of the Government Code regarding accessory dwelling units (ADUs). These bills include modifications such as: clarifying standards imposed must be objective, front setbacks must allow at least an 800 square foot ADU, new height allowances based on property location and proximity to high quality transit and removing owner occupancy requirements. SB 897 and AB 2221 became effective on January 1, 2023 and AB 976 will become effective on January 1, 2024. The proposed zoning text amendments are recommended to ensure the city code is consistent with state law.

Environmental Assessment:

Section 15282(h) of the California Environmental Quality Act (CEQA) Guidelines statutorily exempts from further environmental review those projects involving the adoption of an ordinance regarding second units in a single-family or multifamily

residential zone by a city or county to implement the provisions of Section 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code. The subject zoning ordinance amendments are covered under Section 15282(h) of the CEQA Guidelines.

DISCUSSION AND ANALYSIS:

State laws SB 897 and AB 2221 became effective January 1, 2023 and AB 976 will become effective on January 1, 2024 requiring modifications to the City's Zoning Ordinance for accessory dwelling units.

The following table provides a summary of the amendments proposed to be consistent with new state laws. The revised draft ADU Ordinance is attached with changes shown in strikeout and underline text (See Attachment).

Topic	Section	Action
ADU conveyance	30.54.20 (b) and (c)	Amended to allow separate conveyance as permitted by Govt. Code Section 65852.26(a).
Deed restriction	30.54.20 (c)	Amended to remove requirement of a recorded deed restriction and instead accept an Affidavit from the property owner.
Owner occupancy	30.54.20 (c); 30.54.40 (a)	Amended to remove owner occupancy requirement per state law.
Design standards	30.54.20 (e)	Amended to include "objective" design standards and zoning must allow for construction of at least an 800 square foot ADU with four-foot side and rear setbacks per state law.
Independent utility connections	30.54.20 (j)	Removed. Not consistent with state law.
Number of ADUs	30.54.30 (c) and Preamble	Amended to include language precisely as stated in state law.
ADU size for internal conversions	30.54.30 (d)(2)	Removed internal conversions of existing living space because the state law does not limit the size of internal conversions. Added language to include size allowed for attached ADUs per state law which states attached ADUs shall not exceed 50 percent of the existing primary dwelling but shall allow at least an 850

		square foot one bedroom unit or 1,000 square foot two or more-bedroom unit.
ADU height maximums	30.54.30 (e)(1); 30.54.30 (e)(3); 30.54.50(c)	Amended to comply with state law to allow height for detached ADUs up to 18 feet within ½ mile of a major transit stop or high-quality transit corridor or on multifamily zoned properties with a multifamily, multi-story dwelling structure.
Front yard setbacks	30.54.30(f)(1)	Amended so as not to preclude construction of an 800 square foot ADU with four-foot side and rear setbacks per state law.
Driveway standard	30.54.30 (g)	Removed requirement for driveway clearance of 18 feet from back of sidewalk which is not required per state law.
Compatible with existing primary dwelling	30.54.30 (h)(1)	Removed “not limited to” which is considered to be subjective language.
Streamlined ADUs	30.54.30 (i)	Removed. The language includes requirements not consistent with state law. All ADUs are streamlined and ministerially approved.
Shared bathroom	30.54.40 (f)	Amended to include that a JADU shall have an interior entry to the main living area if the JADU shares a bathroom with the primary dwelling unit.
Definitions	30.54.60	Added “high-quality transit corridor”, “major transit stop”, and “objective standards” per state law.

The proposed zoning text amendments require approval from City Council, following review and recommendation by the Planning Commission. The following analysis further demonstrates the amendments would be consistent with the general purpose of the Zoning Ordinance and applicable General Plan goals and policies.

General Plan Consistency: The proposed amendments are consistent with the Gilroy 2040 General Plan Land Use Goal LU 3 to provide a variety of housing types that offer choices for Gilroy residents and create complete, livable neighborhoods; Gilroy 2023-2031 Housing Element Goal 1 (Housing Production) to encourage the production of a variety of housing types for Gilroy residents; and Gilroy 2023-2031 Housing Element Goal 2 (Removal of Government Constraints) to periodically review City regulations and ordinances to ensure that they do not constrain housing development and are consistent with state law.

Zoning Text Amendment Review: Pursuant to City Code Section 30.52.40, the Planning Commission may recommend approval, recommend modifications, or deny the proposed ordinance amendment. The draft Ordinance includes findings demonstrating that the amendment is appropriate and necessary to carry out the general purpose of the Zoning Ordinance and comply with applicable General Plan goals and policies. Pursuant to Section 30.52.60, the City Council may approve, modify, or disapprove a proposed ordinance amendment. The action by the City Council shall be final and conclusive. Ordinances become effective 30 days after adoption by the City Council.

PUBLIC NOTICING:

A notice of the November 2, 2023 Planning Commission meeting was advertised in the Gilroy Dispatch on Friday, October 20, 2023 (no less than 10 days prior to the meeting). The Planning Commission public hearing packets are available through the City's webpage. No public comments have been received on the proposed amendment.

CONCLUSION AND NEXT STEPS

Staff recommends that the Planning Commission recommend approval of the draft changes to City Code, Chapter 30 (Zoning), Article LIV regarding Accessory Dwelling Units. Alternatively, the Planning Commission can deny the zoning text amendments or recommend modifications to the Ordinance. However, this is not recommended since the City would remain inconsistent with state law. The recommendation of the Planning Commission shall be forwarded to the City Council. The Council hearing date is tentatively scheduled for November 20, 2023.

Attachment:

Draft Accessory Dwelling Unit Ordinance

ORDINANCE 2023-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GILROY AMENDING THE GILROY CITY CODE, CHAPTER 30 (ZONING), ARTICLE LIV REGARDING ACCESSORY DWELLING UNITS

WHEREAS, the Gilroy City Code Chapter 30 (Zoning), Article LIV currently regulates accessory dwelling units within the city; and

WHEREAS, Senate Bill No. 897 and Assembly Bill No. 2221 were approved by the Governor and filed with the Secretary of State on September 28, 2022, and amended Section 65852.2 of the Government Code, which became effective January 1, 2023; and

WHEREAS, Assembly Bill No. 976 was approved by the Governor and filed with the Secretary of State on October 11, 2023, and amended Section 65852.2 of the Government Code, and will be effective January 1, 2024; and

WHEREAS, Senate Bill No. 897, Assembly Bill No. 2221, and Assembly Bill No. 976 require text amendments to Gilroy City Code Chapter 30 (Zoning), Article LIV regarding accessory dwelling units; and

WHEREAS, the adoption of the Zoning Ordinance text amendments is statutorily exempt from review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15282(h) for projects involving the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Section 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code; and

WHEREAS, on November 2, 2023, the Planning Commission held a duly noticed public meeting, at which time the Planning Commission received and considered the staff report as well as all evidence received including written and oral public testimony related to the proposed Zoning Amendments (Z 23-05); and

WHEREAS, the City Council held a duly noticed public hearing on November 20, 2023, at which time the City Council received and considered Zoning Amendment file number Z 23-05, took and considered written and oral public testimony, the staff report, and all other documentation related to application Z 23-05; and

WHEREAS, in accordance with City of Gilroy Chapter 30 (Zoning), Article LII (Amendment to the Zoning Ordinance), the Planning Commission has recommended, and the City Council finds, that the proposed Zoning Ordinance text amendment is necessary to carry out the general purpose of the Zoning Ordinance, and applicable General Plan goals and policies including Gilroy 2040 General Plan Land Use Goal LU 3 to provide a variety of housing types that offer choices for Gilroy residents and create complete, livable neighborhoods; Gilroy 2023-2031 Housing Element Goal 1 (Housing Production) to encourage the production of a variety of housing types for Gilroy residents; and Gilroy 2023-2031 Housing Element Goal 2 (Removal of Government Constraints) to periodically review City regulations and ordinances to ensure that they do not constrain housing development and are consistent with state law; and

WHEREAS, the location and custodian of the documents or other materials which constitute the record of proceedings upon which the project approval is based is the office of the City Clerk.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GILROY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I

The foregoing recitals are true and correct and are incorporated herein by this reference.

SECTION II

The amendments to the Gilroy City Code, Chapter 30 (Zoning), Article LIV, set forth in Exhibit 'A' regarding accessory dwelling units, are hereby adopted.

SECTION III

If any section, subsection, subdivision, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise void or invalid by any court of competent jurisdiction, the validity of the remaining portion of this Ordinance shall not be affected thereby.

SECTION IV

Pursuant to section 608 of the Charter of the City of Gilroy, this Ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

PASSED AND ADOPTED by the City Council of the City of Gilroy at a regular meeting duly held on the ___ day of ___ 2023 by the following roll call vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

APPROVED:

Marie Blankley, Mayor

ATTEST:

Thai Nam Pham, City Clerk

EXHIBIT 'A' of ORDINANCE 2023-XX

30.54.10 Purpose and intent.

The intent of this article is to provide for accessory dwelling units and junior accessory dwelling units on lots zoned to allow single-family, duplex and multifamily dwelling residential use and that include a proposed or existing primary residential dwelling consistent with California Government Code Section 65852.2. Accessory dwelling units contribute needed housing to the City of Gilroy's housing stock and enhance housing opportunities. An accessory dwelling unit is considered a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit is not included in calculation of residential density for the purposes of determining general plan conformance.

30.54.20 General requirements.

Notwithstanding any local ordinance regulating the issuance of variances or special use permits, or regulations adopted herein to the contrary, an application for a building permit to construct an accessory dwelling unit or junior accessory dwelling unit shall be approved or denied ministerially without discretionary review or hearing within sixty (60) days from the date the city receives a completed application if there is an existing single-family or multifamily dwelling on the lot. The following requirements apply to all accessory dwelling units:

- (a) An accessory dwelling unit shall not be rented for periods less than thirty (30) days. Short-term rentals are prohibited.
- (b) An accessory dwelling unit shall not be sold separately from the primary residential structure except as permitted by California Government Code Section 65852.26(a).
- (c) Prior to the issuance of a building permit for an accessory dwelling unit and/or a junior accessory dwelling unit, the owner must sign an Affidavit record a deed restriction stating that any accessory dwelling unit on the property may not be rented for periods less than thirty (30) days and that any accessory dwelling unit may not be transferred or sold separately from the primary residential structure except as permitted by California Government Code Section 65852.26(a). ~~In addition, the deed restriction for a junior accessory dwelling unit shall include an owner occupancy requirement in compliance with this article. However, there shall be no owner occupancy requirement imposed on an accessory dwelling unit that is permitted on or after January 1, 2020.~~
- (d) The installation of fire sprinklers shall not be required for an accessory dwelling unit if sprinklers are not otherwise required for the primary residence.
- (e) Accessory dwelling units are subject to the objective design standards and other zoning requirements of the zoning district in which the existing primary dwelling is located and must be built in accordance with the building code set forth in Chapter 6, except for those design, zoning, and building standards inconsistent with state

requirements under California Government Code Section 65852.2. Zoning standards and requirements will be modified if they would preclude the construction of at least an 800 square foot attached or detached dwelling unit with four-foot side and rear yard setbacks.

(f) An accessory dwelling unit is not subject to residential accessory structure regulations.

(g) An accessory dwelling unit will not be subject to any charges and fees other than building permit fees generally applicable to residential construction in the zone in which the property is located, except as otherwise provided herein.

(h) Any connection fees and capacity charges that may be required must be assessed in compliance with the provisions of Government Code Sections 65852.2 and 65852.22.

(i) The accessory dwelling unit must contain water, sewer and gas and/or electric utility connections that are in working condition upon its occupancy. The accessory dwelling unit may be serviced by the primary residence or may have separate utility meters. The accessory dwelling unit will not be considered a new residential use for the purpose of calculating connection fees or capacity charges for these utilities.

~~(j) Subject to Government Code Section 65852.2(f)(4), an accessory dwelling unit must have an independent electrical subpanel, water heating and space heating equipment within the unit or be readily accessible to the occupant on the exterior of the unit.~~

(~~j~~k) Ministerial approval of a permit for creation of an accessory dwelling unit shall not be conditioned on the correction of preexisting nonconforming zoning conditions.

(~~k~~l) A certificate of occupancy for any accessory dwelling unit shall not be issued before the local agency issues a certificate of occupancy for the primary dwelling.

(~~l~~m) If the applicant requests a delay in processing, the sixty (60) day time period shall be tolled for the period of the delay.

30.54.30 Single-family residential accessory dwelling unit standards.

Notwithstanding any other provisions of this article or of this chapter to the contrary, ~~one (1)~~ residential accessory dwelling unit shall be permitted as a single-family residential use that complies with California Government Code Section 65852.2 and the following:

(a) Zoning. An accessory dwelling unit shall be allowed on any residential parcel in any zoning district that permits residential or mixed use development and which contains an existing or proposed primary single-family residential use.

~~(b) Number. Only one (1) detached accessory dwelling unit may be permitted on a parcel that contains not more than one (1) existing or proposed single-family residence.~~

(b) Primary Dwelling Relationship. An accessory dwelling unit may be within, attached to, or detached from the proposed or existing primary dwelling; provided, that a single-family residential accessory dwelling unit contained within or attached to an existing primary dwelling unit shall have independent exterior access from the existing residence.

(c) Unit Type Combinations. Ministerial approval for a building permit within a residential or mixed-use zone is permitted to create any of the following:

(1) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of this article and Government Code Section 65852.22.

(2) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling.

(d) Size.

(1) A detached accessory dwelling unit shall not exceed a maximum size of one thousand (1,000) square feet in floor area.

(2) An attached accessory dwelling unit ~~including internal conversions of existing primary living space~~, shall be permitted but shall not exceed fifty percent (50%) of the existing primary dwelling gross floor area, garage area excluded. Notwithstanding this requirement, an eight hundred ~~fifty~~ one bedroom or one thousand (1,000) square-foot two or more-bedroom accessory dwelling unit shall be allowed.

(e) Height.

(1) The maximum height for a ~~an detached~~ accessory dwelling unit shall be one (1) story and sixteen (16) feet. Detached accessory dwelling units located within a half-mile of a major transit stop or high-quality transit corridor are permitted to a maximum height of 18 feet, and may be up to two feet or taller, for a maximum of 20 feet, if necessary to match the roof pitch of the primary dwelling unit.

(2) The maximum height for a structure composed of a detached garage and an accessory dwelling unit that is proposed to be constructed above a detached garage shall be twenty-four (24) feet.

(3) An accessory dwelling unit attached to the primary dwelling is limited to the height allowed in the underlying zoning district.

(f) Setbacks. An accessory dwelling unit is subject to the design criteria and zoning requirements of the district in which the existing single-family dwelling is located and as follows:

(1) An accessory dwelling unit must not encroach upon the required front yard area unless it would preclude the construction of at least an eight hundred (800) square foot accessory dwelling unit with four-foot side and rear yard setbacks.

(2) A setback of four (4) feet from the side and rear lot lines shall be required for a newly constructed accessory dwelling unit that is not constructed in the same location and to the same dimensions as an existing structure.

(3) No additional zoning setback is required for conversion of an existing permitted accessory structure, living area, or garage space, or conversion of a structure that is constructed in the same location and to the same dimensions as the existing structure.

(g) Parking. One (1) additional parking space shall be required for a newly constructed accessory dwelling unit, which may be located within the front setback, in tandem and in an existing driveway ~~that provides at least eighteen (18) feet of clearance from the back of sidewalk.~~ Parking in setback areas or tandem parking may be denied if found to be infeasible due to specific site or life safety conditions. Notwithstanding the above, a parking stall will not be required for an accessory dwelling unit that meets any of the following criteria:

(1) The accessory dwelling unit is created as a result of the conversion of existing area of the single-family residence or existing permitted single-family residential accessory structure.

(2) An existing single-family residential garage, carport or parking structure is converted or demolished to accommodate an accessory dwelling unit in the same location.

(3) The accessory dwelling unit is within one-half (1/2) mile walking distance of a public transit station, such as a bus stop or train station.

(4) The property is within an architecturally and historically significant historic district.

(5) On-street parking permits are required in the area but not offered to the occupant of the residential accessory dwelling unit.

(6) A car share vehicle is located within one (1) block of the accessory dwelling unit.

(h) Design Standards. Architectural review of an attached or detached accessory dwelling unit will be limited to the following:

(1) The design of the single-family residential accessory dwelling unit must be compatible with the existing primary dwelling. This may be achieved through use of the same architectural details, including ~~, but not limited to,~~ window styles, roof slopes, exterior materials, and colors. Architectural review shall not unreasonably restrict construction of the accessory dwelling unit.

(2) An accessory dwelling unit located within a historic site or neighborhood combining district will be subject to ministerial review for compliance with the design review criteria set forth in ~~section~~ Section 30.27.40 and must be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

(3) Outside stairways serving a second story accessory dwelling unit shall not be constructed on any building elevation facing a public street.

(4) No passageway will be required in conjunction with the construction of an accessory dwelling unit.

(5) An accessory dwelling unit must be built in accordance with the building code set forth in Chapter 6, except that any design, zoning, and building standards inconsistent with state requirements under California Government Code Section 65852.2 shall not apply.

~~(i) Streamlined Accessory Dwelling Units. Notwithstanding the above restrictions of this section, a building permit application shall be ministerially approved for an attached or detached single-family accessory dwelling unit that is proposed on a lot with a proposed or existing family dwelling if the accessory dwelling unit complies with all of the following minimum standards:~~

~~(1) The front yard setback requirement is provided for new construction;~~

~~(2) A setback of at least four (4) feet is provided from side and rear lot lines;~~

~~(3) No greater than eight hundred (800) square feet of floor area is proposed;
and~~

~~(4) No greater than sixteen (16) feet of height is proposed.~~

30.54.40 Junior accessory dwelling unit standards.

Notwithstanding any other provisions in this article or of this chapter to the contrary, a junior accessory dwelling unit shall be permitted within a single-family residential unit in compliance with the following standards:

~~(a) Owner occupancy of the property shall be required. The owner must reside in the primary single-family residence, junior accessory dwelling unit or separate residential accessory dwelling unit constructed on the property in compliance with this article.~~

~~(ab)~~ One (1) junior accessory dwelling unit may be permitted per residential lot zoned for a single-family residential use; provided, that the lot has not more than one (1) existing or proposed single-family residence, and not more than one (1) attached or detached residential accessory dwelling unit if constructed in compliance with all applicable limitations of Section 30.54.30.

~~(be)~~ The unit must be constructed within the existing walls of an existing or proposed single-family dwelling.

~~(cd)~~ The square footage of the unit shall be at least the minimum size required for an efficiency unit, up to a maximum size of five hundred (500) square feet in floor area.

~~(de)~~ A separate entrance from the unit to the exterior of the residence shall be provided. Internal connection may also be permitted.

~~(ef)~~ An efficiency kitchen must be provided in the unit which shall include all of the following:

(1) A cooking facility with appliances, which may be countertop appliances.

(2) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

~~(fg)~~ The unit may include separate bathroom facilities or may share bathroom facilities contained within the primary residence. If a bathroom facility is shared with a primary residence, a separate interior entry to the main living area is required.

~~(gh)~~ No separate utility connection, connection fee or capacity charge, or parking space shall be required for a junior accessory dwelling unit.

30.54.50 Multifamily and duplex residential accessory dwelling unit standards.

Notwithstanding any other provisions of this article or of this chapter to the contrary, accessory dwelling units within duplex or multifamily zoned and developed properties shall be permitted and comply with the following:

(a) Portions of the existing duplex or multifamily dwelling structure(s) that are not used as livable space (including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages) may be converted for use as accessory dwelling units; provided, that the total number of units must not exceed twenty-five percent (25%) of the existing multifamily dwelling units or one (1) unit, whichever is greater.

(b) An owner may also construct up to a maximum of two (2) detached accessory dwelling units on a lot that has an existing permitted or proposed duplex or multifamily dwelling, subject to a height limit of sixteen (16) feet and four (4) foot rear yard and side setbacks.

(c) Height. Accessory dwelling units are limited to a maximum height of 16 feet, except as established below:

(1) A detached accessory dwelling unit located within a half-mile of a major transit stop or high-quality transit corridor is limited to a maximum height of 18 feet, and may be up to two feet taller, for a maximum of 20 feet, if necessary to match the roof pitch of the primary dwelling unit.

(2) A detached accessory dwelling unit located on a parcel with a multistory, multifamily dwelling structure is limited to a maximum height of 18 feet.

(de) Each unit shall be limited in accordance with the maximum size parameters provided in section 30.54.30(d)

30.54.60 Definitions.

As used in this article, the following terms shall be defined as follows:

“Accessory dwelling unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one (1) or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking and a food preparation area (which may include countertop appliances), and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. “Accessory dwelling unit” also includes the following:

(a) An efficiency unit, as defined in California Health and Safety Code Section 17958.1.

(b) A manufactured home, as defined in California Health and Safety Code Section 18007.

“Attached accessory dwelling unit” means a residential dwelling unit that is created as a result of internal conversion, addition, or combination thereof made to the primary residential dwelling unit.

“High-quality transit corridor” means a corridor with fixed bus route service with service intervals no longer than 15 minutes during peak commute hours as defined in Section 21155 of the Public Resources Code.

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

“Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

“Major transit stop” means an existing rail or bus rapid transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods as defined in Section 21064.3 of the Public Resources Code.

“Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.

“Objective standards” means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

“Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

“Tandem parking” means that two (2) or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.



Community Development Department

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TO: Planning Commission
FROM: Sharon Goei, Community Development Director
Kraig Tambornini, Senior Planner
DATE: November 2, 2023
SUBJECT: Planning Division Staff Approvals

In conformance with Gilroy Municipal Code Sections 30.50.20(b) and 30.50.46, the following table lists all Minor Deviation approvals and all Architectural and Site approval/denial actions taken by the Planning Division since the last report was provided to the Planning Commission at its October 5, 2023 meeting.ⁱ

APPROVED	PROJECT #	LOCATION	PROJECT NAME & DESCRIPTION
9/18/2023	AS 23-07	8760 Wild Iris Drive	New hillside single family residence in the Residential Hillside (RH) zone district

DENIED	PROJECT #	LOCATION	PROJECT NAME & DESCRIPTION
None			

AS = Architectural and Site Review
VMD = Minor Deviation

The current status of other planning projects is available online at:
<https://www.cityofgilroy.org/298/Development-Activity-Projects>

ⁱ Submitted in conformance with Gilroy Municipal Code Sections 30.50.20(b) and 30.50.46