

## Legislation Text

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**File #:** AC 18-018, **Version:** 1

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Public Hearing to consider a Consistency Determination (ALUC-18-03) for the proposed County of Solano Secondary Dwelling Unit Ordinance and Accessory Building Ordinance with the Travis Air Force Base, the Nut Tree Airport and the Rio Vista Airport Land Use Compatibility Plans. (Sponsor: County of Solano)

### **RECOMMENDATION:**

Determine that application ALUC-2018-03 (County of Solano Secondary Dwelling and Accessory Building Ordinance) is consistent with the Travis Air Force Base, the Nut Tree Airport and the Rio Vista Airport Land Use Compatibility Plans.

### **DISCUSSION:**

#### Introduction

On January 1, 2018, new state legislation went in to effect mandating certain minimum requirements for any local zoning regulations pertaining to accessory dwelling units. The legislation rendered invalid any local regulations if they were not in complete conformance with the new state rules for secondary dwellings. The main effect of the legislation was to cap, at 1,200 square feet, the size of any secondary dwelling permitted by a city or county. The legislation also imposed several restrictions and requirements which local government must meet in any local ordinance regulating secondary dwellings.

Prior to this legislation, secondary dwellings in certain Solano County zoning districts could be permitted up to 1,800 square feet. The legislation does permit local agencies to adopt secondary dwelling unit regulations with different size limitations, providing the local ordinances comply with all of the state's other requirements. The County wishes to re-establish it's more generous size limitations for secondary dwellings. The County has prepared two ordinances which, together, restore the maximum sizes for secondary dwellings which were in effect prior to January 1, 2018 and add the mandated restrictions and requirements imposed by the State. The proposed ordinance amendments are summarized below:

#### **Accessory Building Ordinance (Attachment A and A1)**

The proposed revisions include reformatting of Section 28.72 Residential Uses in Article III of Chapter 28 to organize all of the regulations pertaining to secondary dwellings into one subsection of the County Code. In addition, this ordinance contains minor technical adjustments to the regulations pertaining to various types of non-dwelling accessory buildings. (See Attachment A and A1). These changes do not alter the intensity of density of development permitted on any parcel in the County of Solano.

#### **Secondary Dwelling Unit Ordinance (Attachment B)**

The State requires that any local ordinance regulating secondary dwellings include provisions addressing each of the following topical areas.

- a. Minimum and Maximum Sizes,
- b. Minimum Lot Size Required,

- c. Secondary Dwellings and Temporary Dwellings,
- d. Secondary Dwellings and Other Housing Units,
- e. Attached/detached Secondary Units,
- f. Height and Setback Requirements,
- g. Parking,
- h. Landscaping,
- i. Architectural Review,
- j. Historic Resources,
- k. Sale or Rental of a Secondary Dwelling,
- l. Transient Occupancy and other Commercial Activity,
- m. Utilities and Utility Connections, and
- n. Manufactured Home

The County of Solano is proposing an ordinance which includes these mandatory provisions. In nearly every case, the ordinance is continuing existing regulations which were in place prior to the state intervention into secondary dwelling regulations.

In addition, this ordinance revises existing provisions pertaining to certain non-conforming dwelling types, including:

- a. Non-conforming Secondary Dwelling
- b. Non-conforming Guest House

Finally, the ordinance deletes the outdated provisions regarding non-conforming companion living units, including:

- a. Non-conforming Companion Living Units,
- b. Secondary Dwellings and Companion Living Units, and
- c. Time Extensions

These changes do not alter the intensity of density of development permitted on any parcel in the County of Solano.

## ALUC Jurisdiction

The Secondary Dwelling and Accessory Building Ordinances are statutorily required to come before the ALUC for a consistency determination. These regulations apply to properties in various locations of the County of Solano and thus are reviewed in light of all three Airport Land Use Compatibility Plans (ALUCPs).

## REQUIRED TESTS FOR CONSISTENCY

### ALUC Review Requirements

State law, under Section 21661.5 of the Public Utilities Code, requires that any proposed zoning regulations or revisions to the local zoning ordinance be reviewed for consistency with adopted airport land use compatibility plans.

The ALUC is concerned with those aspects of the proposed zoning changes which have the potential to be incompatible with any of the three ALUCs in the County..

### California Airport Land Use Planning Handbook

The State Department of Aeronautics has published the California Airport Land Use Planning Handbook as a guide for Airport Land Use Commissions in the preparation and implementation of Land Use Compatibility Plans and Procedure Documents. Section 6.4.2 sets forth procedures for the review of local zoning ordinances and directs agencies to consider the topics listed in Table 5A, as follows:

#### ***Zoning or Other Policy Documents*** (from Table 5A, CalTRANS Airport Land Use Planning Handbook)

*The Handbook lists the following topics for consideration when reviewing zoning or other policy documents.*

- *Intensity Limitations on Nonresidential Uses*
- *Identification of Prohibited Uses*
- *Open Land Requirements*
- *Infill Development*
- *Height Limitations and Other Hazards to Flight*
- *Buyer Awareness Measures*
- *Non-conforming Uses and Reconstruction*

## CONSISTENCY ANALYSIS

Staff has reviewed the proposed Secondary Dwelling and Accessory Building Ordinances for consistency with the applicable land use compatibility plans and the State mandated compatibility factors. Our analysis is presented below.

### Intensity Limitations on Nonresidential Uses

Each of the three ALUCPs within Solano County contain compatibility zones most of which contain limitations on the density of residential projects or the intensity of non-residential projects. In the case of these two proposed ordinances, there are no changes which increase or alter the residential density permitted in the County. As a result, the proposed Secondary Dwelling and Accessory Building Ordinances are consistent with the three ALUCPs.

### Identification of Prohibited Uses

The proposed Secondary Dwelling and Accessory Building Ordinances make no changes to the allowed or prohibited land uses in any zoning district. The changes are focused only on development standards for dwellings and their accessory structures. As a result, the proposed Secondary Dwelling and Accessory Building Ordinances are consistent with the three ALUCPs.

### Open Land Requirements

Each of the three ALUCPs within Solano County contain compatibility zones most of which contain open land requirements in zones near the airfields. These compatibility zones generally do not permit residential development. In any event, the proposed Secondary Dwelling and Accessory Building Ordinances make no changes to the open land requirements in any zoning district. As a result, the proposed Secondary Dwelling and Accessory Building Ordinances are consistent with the three ALUCPs.

### Infill Development

The proposed regulations apply throughout the County of Solano to properties which may or may not be considered infill locations. Infill development is sometimes afforded additional density or intensity when it is surrounding by existing development that does not meet the requirements of the Travis Plan. However, neither of the proposed ordinances provides any increases in density for infill projects. As a result, no further consideration is required for this criterion and the regulations would be consistent with these criterion. Accordingly, the proposed Secondary Dwelling and Accessory Building Ordinances are consistent with the three ALUCPs.

### Height Limitations and Other Hazards to Flight

Each of the three ALUCPs contain height limitations and prohibitions on “Other Hazards to Flight”. The other hazards to flight involve land uses which may lead to bird strikes, potential obstructions due to tall objects or glare and communication interference.

The proposed Secondary Dwelling and Accessory Building Ordinances make no changes to the height requirements in the zoning regulations. The ordinances do not alter the rules for land uses which might contribute to increases in bird strikes, nor do they alter regulations regarding communication facilities or lighting and glare prevention rules. As a result, the proposed Secondary Dwelling and Accessory Building Ordinances are consistent with the three ALUCPs.

### Buyer Awareness Measures

The proposed Secondary Dwelling and Accessory Building Ordinances do not designate any new residential uses. As a result, Buyer Awareness Measures are not required as a part of the approval of new residential areas. As a result, the proposed Secondary Dwelling and Accessory Building Ordinances are consistent with the three ALUCPs.

### Non-conforming Uses and Reconstruction

The project is not authorizing any construction nor does it expand the non-conforming use provisions of the County zoning regulations. Some non-conforming use provisions, which have expired, are being deleted from the regulations. The result is that non-conforming uses and reconstruction issues are not a part of these ordinances. As a result, the proposed Secondary Dwelling and Accessory Building Ordinances are consistent with the three ALUCPs.

In light of the above discussion, staff is recommending a consistency finding between the Secondary Dwelling and Accessory Building Ordinances and the Travis Air Force Base, the Nut Tree Airport and the Rio Vista Airport Land Use Compatibility Plans.

## **RECOMMENDATION**

Based on the analysis and discussions above, staff recommends that the Solano County Airport Land Use Commission find as follows:

**Determination:** Determine that application ALUC-2018-03 for a Consistency Determination for the County of Solano Secondary Dwelling Unit Ordinance and Accessory Building Ordinance is consistent with the Travis Air Force Base, the Nut Tree Airport and the Rio Vista Airport Land Use Compatibility Plans. (Sponsor: County of Solano)

#### **Attachments:**

Attachment A: Accessory Building Ordinance  
Attachment A1: Exhibit A New Section 28.72

Attachment B: Secondary Dwelling Ordinance