



# Agenda Report

March 12, 2018

**TO:** Honorable Mayor and City Council  
**FROM:** Planning & Community Development Department  
**SUBJECT: ACCESSORY DWELLING UNITS: MAXIMUM UNIT SIZE AND RESIDENTIAL IMPACT FEE**

## **RECOMMENDATION:**

It is recommended that the City Council:

1. Acknowledge that the proposed Zoning Code text amendments are exempt from the California Environmental Quality Act (CEQA) under Public Resources Code Section 21080.17;
2. Acknowledge that the proposed changes to covenants for affordable Accessory Dwelling Units and the new landlord agreement is not a "project" and are therefore not subject to environmental review pursuant to State California Environmental Quality Act (CEQA), the Guidelines Section 15378(b)(4) (definition of project excludes government fiscal activities which do not involve any commitment to any specific project);
3. Approve the proposed Zoning Code Text Amendments to Section 17.50.275 of Title 17 of the Pasadena Municipal Code to regulate the maximum allowable size Newly Constructed Accessory Dwelling Units;
4. Approve the proposed changes to the Inclusionary Housing Regulations to include Accessory Dwelling Units; and
5. Direct the City Attorney to return within 30 days with:
  - a. An ordinance amending the Pasadena Municipal Code as presented in this report; and
  - b. An amended Inclusionary Housing Regulations as presented in this report.

## **BACKGROUND:**

On December 11, 2017, the City Council approved a series of Zoning Code amendments to the City's Accessory Dwelling Unit Ordinance. The City Council approved staff's recommendations, but directed staff to include in the ordinance no minimum lot size requirement for Accessory Dwelling Units on RM-zoned properties.

The City Council also directed staff to allow Accessory Dwelling Units larger than 800 square feet on larger lots at a to-be-determined minimum lot size threshold, but requested staff to draft a specific regulation and return to the City Council with a recommendation. A summary of the City Council-approved amendments to the Accessory Dwelling Unit regulations is included as Attachment A.

The City Council also discussed, but did not approve the staff recommendation to reduce the Residential Impact Fee for new Accessory Dwelling Units. The City Council did direct staff however to reduce the length of time for affordability covenants for Accessory Dwelling Units, as a method to take advantage of the significantly lower Residential Impact Fee that is charged for covenanted-affordable units.

On February 5, 2018 the City Council received an agenda report containing staff recommendations for maximum unit size and affordability covenants for Accessory Dwelling Units, as well as public comments on these two topics. Although the City Council voted to continue the discussion staff was asked to elaborate on the legalities of the Residential Impact Fee as applied to Accessory Dwelling Units at the next meeting (originally scheduled for February 26<sup>th</sup> rather than the meeting of March 12<sup>th</sup>). The following is intended to respond to the issues raised on February 5, 2018.

#### Maximum Unit Size

The City's existing regulations limit the size of Newly Constructed Accessory Dwelling Units to 800 square feet or 50 percent of the size of the primary dwelling, whichever is less, while State Law permits local municipalities to allow as much as 1,200 square feet. At the December 11 meeting, City Council expressed that a maximum unit size of 800 square feet was too restrictive for larger lots. City Council directed staff to review and recommend a maximum unit size sliding scale of up to 1,200 square feet that is dependent on minimum lot size, while retaining the provision of no more than 50 percent of the size of the primary dwelling, whichever is less.

Staff recommends that for Newly Constructed Accessory Dwelling Units proposed on properties that are greater than or equal to 7,200 square feet and less than 10,000 square feet, the maximum unit size be the lesser of 800 square feet or 50 percent of the size of the primary dwelling. And, for Newly Constructed Accessory Dwelling Units proposed on properties that are greater than or equal to 10,000 square feet in size, the maximum unit size be the lesser of 1,200 square feet or 50 percent of the size of the primary dwelling.

#### Development Impact Fees

The Residential Impact Fee was established in 1988 (Chapter 4.17 of the Pasadena Municipal Code) to provide funds for City parks and park facilities to address the impact of new residential development. This fee applies to all new residential units in the City, including Accessory Dwelling Units, and is calculated based on the number of bedrooms per unit, and not by size or square footage. This fee is charged when the building permit for a new residential unit is issued. The current Residential Impact Fee

for studios and one-bedroom dwelling units are \$18,472.73 and \$19,494.61, respectively. Per current State Law, municipalities are not prohibited from charging development impact fees such as the Residential Impact Fee, nor are municipalities prohibited from charging land use application fees. There are limitations on fees for utility connection or capacity fees, including water and sewer service.

Community meetings were held in the Spring and Fall of 2017 for the purpose of discussing the potential amendments to the Accessory Dwelling Unit regulations. One of the most common concerns raised at these meetings regarded the potential for development impact fees to substantially increase the cost to construct Accessory Dwelling Units; thereby acting as a disincentive to their construction.

When the City Council discussed the proposed residential impact fee reduction, concerns were raised regarding the potential for Accessory Dwelling Units to be market rate units and not fulfill the goal of providing more affordable housing units in the city. Ultimately the Council decided to provide for a reduction of the residential impact fee for Accessory Dwelling Units only if the applicant enters into an affordability covenant. Acknowledging that the length of time of an affordability covenant (30 years) can be burdensome for the average homeowner, the City Council directed staff to examine lessening this term and return with a recommendation.

Staff is recommending that the affordability covenant for an Accessory Dwelling Unit be reduced to seven years. The covenant would require a homeowner to set the rent for an Accessory Dwelling Unit at a price affordable to households with an income up to 120% of the Area Median Income for seven years. After the conclusion of the seven-year term, the covenant would expire and there would be no limitation as to whom an Accessory Dwelling Unit could be rented to. Staff is recommending that the fee for a covenanted Accessory Dwelling Unit be the same as any other covenanted affordable unit. The current Residential Impact Fee for affordable units is \$957.30.

Staff has also identified another option that the City Council may choose to consider. A covenant on a single-family residence can make selling and/or refinancing a home more difficult because encumbrances on a single-family home are less common and more likely to be of concern to a buyer and/or a financial institution. Conversely, covenants on multi-family dwellings are more common and developers are more likely to have the financing options available to accommodate such restrictions on a development. In addition, the typical homeowner may not have the knowledge, resources, and time to verify the income levels of potential tenants.

Therefore, another option is to allow a homeowner to enter into a landlord agreement with the City. The homeowner would have two options under this agreement:

The first option would allow a homeowner to enter into a landlord agreement with the City committing the Accessory Dwelling Unit to be rented out exclusively to the City's rental assistance clients for a term of seven years. Advantages to this program would be that there would be no legal encumbrances on the property that could limit a homeowner's future financial options and the homeowner would not have to verify the

income level of each prospective renter, as the City would already have a list of pre-qualified tenants.

The second option would allow a homeowner to rent to a family member as defined under the City's Tenant Protection Ordinance (this definition includes the landlord's spouse, grandparents, grandchildren, brother, sister, father-in-law, mother-in-law, daughter-in-law, son-in-law, children, or parents) and enter into a landlord agreement with the City committing the Accessory Dwelling Unit to be rented out at no more than 50% of the Area Median Income Level (AMI) Inclusionary Unit Rent limit for a term of seven years. At this time, the 50% AMI Inclusionary Unit Rent limit for a studio unit is \$566 and for a one-bedroom unit is \$648. These rental limits are adjusted on an annual basis in accordance with changes in the Los Angeles County Area Median Income level, as published by the State of California Department of Housing and Community Development.

Staff is recommending that for either of the landlord agreement options, the City would require a yearly certification, and if a homeowner decides to end the agreement before the set term of seven years, they will be responsible for paying the full Residential Impact Fee to the City (with credit back for what has been paid).

Currently, the Residential Impact Fee reduction, as described above, can only be applied to housing constructed in compliance with the Inclusionary Housing Regulations. Therefore, it is necessary to amend the Inclusionary Housing Regulations to include Accessory Dwelling Units as a type of housing for which the Impact Fee can be reduced.

#### **COUNCIL POLICY CONSIDERATION:**

The proposed recommendations furthers the goals and policies of the General Plan related to housing choice, adequate and affordable housing, housing diversity and the implementation of Program 13.2 (Alternative Housing Opportunities) and Program 14.2 (Financial Assistance) of the Housing Element.

#### **ENVIRONMENTAL ANALYSIS:**

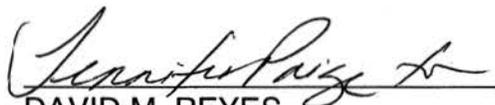
On December 11, 2017, when the City Council approved the Zoning Code Amendments for Accessory Dwelling Units, the City Council also acknowledged that the amendments were exempt from the California Environmental Quality Act (CEQA) under Public Resources Code Section 21080.17, which specifically exempts from environmental review the adoption of an ordinance by a city or county to implement the provisions of Section 65852.2 of the Government Code, which is the State Accessory Dwelling Unit law. Therefore, the proposed Zoning Code text amendments to the City's Accessory Dwelling Unit regulations are statutorily exempt from CEQA in that the proposed amendments consists of provisions that further implements the state Accessory Dwelling Unit law.

Under the California Environmental Quality Act (CEQA), the proposed recommendations concerning the affordability covenant and the landlord agreement are not a "project" and are therefore not subject to environmental review pursuant to State CEQA Guidelines Section 15378(b)(4) (definition of project excludes government fiscal activities which do not involve any commitment to any specific project).

**FISCAL IMPACT:**

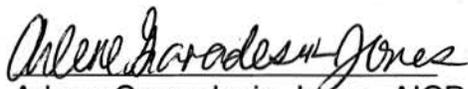
The Residential Impact Fee is collected in Fund 304. Charging a reduced Residential Impact Fee when constructing an Accessory Dwelling Unit will have little impact on the City's overall budget. However, the provision of additional housing opportunities afforded by new and legalized Accessory Dwelling Units will be of benefit to existing and future Pasadena residents, and these residents will support city services through other existing fees and taxes.

Respectfully submitted,



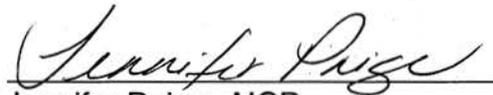
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Attachment: (1)

Attachment A – Summary of Approved Amendments to Accessory Dwelling Unit Regulations