



Housing Advisory Commission

CONSENT CALENDAR
July 24, 2018

To: Honorable Mayor and Members of the City Council
 From: Housing Advisory Commission
 Submitted by: Igor Tregub, Chairperson, Housing Advisory Commission
 Subject: Referral Response: Second Dwelling Unit/Accessory Dwelling Unit Pilot Program to House the Homeless

RECOMMENDATION

Recommend that the City Council expand the referral to include the creation and/or legalization of below-market rate ADUs. Refer to the City Manager the following questions that may guide the City Council on the possibility of establishing this pilot program:

- What are the types of incentives that would be required to attract homeowners to add ADU's?
- Can staff estimate the number of unpermitted units currently in Berkeley?
- How might an amnesty program work?
- How will the City monitor the affordability requirements required by this program over time?
- To what extent might this approach increase the inventory of affordable housing in Berkeley?
- Would the provision of housing vouchers encourage participation?
- Are fair housing laws applicable to ADU units? If not, can these units still be counted towards meeting RHNA goals?
- What could be the limit of financial assistance per unit?
- What could be the amount of fee waivers across different ADU prototypes?
- What could be the duration of rent restrictions on the ADU unit?
- Can the requirement to rent the unit at a BMR rent (in return for financial assistance) be entered into public records as a deed restriction?
- What could trigger a loan repayment? One example could be a decision not to rent out the unit.

SUMMARY

On December 5, 2017, the City Council referred to the HAC the consideration of developing an ADU Pilot Program as an additional strategy to house the homeless. The HAC concludes that a Pilot Program is a good idea once more information is obtained regarding costs to construct and/or legalize ADUs, amount of financial assistance that

could be provided to homeowners, and other policy issues such as legalization of unpermitted units, deed restrictions on homeowners electing to receive subsidies in return for renting units out at affordable rents.

FISCAL IMPACTS OF RECOMMENDATION

At this time, the Housing Advisory Commission (HAC) does not know exactly what a program would cost in Berkeley. While a memo dated December 5, 2017 included on the Consent Calendar provided a budget example, the HAC has concluded that the budget needs to be fine-tuned. For example, the City could waive some or all fees. These waivers could be considered as part of the financing provided to the owner. This possibility is not included in this initial example. Also the costs to bring units to compliance so that they can be permitted are variable, depending on the ADU's condition. Since the costs of ADU's depend on the type of ADU (stand-alone structure, garage conversion, other home remodel, or building on top of a garage), it is difficult to forecast what these costs will be without additional research.

Furthermore any pilot program also needs to address payback of financial assistance to homeowners. The loan could be forgivable to the owner after the owner rents the unit at a below market rent for a specified number of years. Before establishing a pilot program, the City needs to determine a payback schedule. For example, an owner could decide to opt out of the program or decide to sell the house and the ADU unit without the rent restriction, then, the City needs to be reimbursed for some portion of the financial assistance.

Finally, after a pilot program has been tested, at what scale would the City decide to operate this program and what type of staffing would be needed? What could be the funding sources for the program?

CURRENT SITUATION AND ITS EFFECTS

On December 5, 2017, the City Council referred to the City Manager and HAC a Second Dwelling Unit/Accessory Dwelling Unit Pilot Program to House the Homeless. The HAC formed a subcommittee to respond to this referral. The subcommittee met several times in 2018 and periodically returned to the HAC to receive additional feedback.

At its June 7, 2018 meeting, the HAC took the following action:

Action: M/S/C (Owens/Lewis) to adopt the Accessory Dwelling Unit Subcommittee recommendations with amendments as dictated by the Commission.

Vote: Ayes: Amezcua, Holman, Johnson, Kesarwani, Lewis, Lord, Owens, Tregub, and Wolfe. Noes: None. Abstain: None. Absent: Wright (excused).

The City of Berkeley is experiencing a shortage of affordable housing, and an ADU program that encourages homeowners to add or legalize ADU's to rent to low-income individuals and households can add to this inventory. However, it is important that the City establishes realistic goals for such a program. The consensus of the HAC was that it is unclear that establishing a pilot ADU program solely to house the homeless – a population that includes a high percentage of individuals or households earning well below 30% of the Area Median Income – is feasible, as it would provide limited financial incentive to prospective ADU homeowners. Therefore, the HAC recommends that the City Council explore the establishment of a broader pilot program that includes a range of income-restricted ADUs whose rents will be capped at various percentages of the area median income and which would be available to a range of lower-income individuals and households.

- For homeowners with unpermitted ADU's, this pilot program would provide them with a path to legalization, including financial and technical assistance in order to convert unpermitted units to permitted units. Legalizing units would be a higher priority than the construction of new ADU's due to potential safety issues associated with unpermitted ADU's.
- For homeowners who do not yet have ADU's, this pilot program would provide them with technical and financial assistance to assist them with the permitting and construction of new ADUs.

BACKGROUND

The limited amount of affordable housing that has been developed in the past few decades has mostly been units in larger apartment buildings. Large projects in Berkeley, Emeryville and San Francisco now cost over \$500,000 per unit to develop. Furthermore, in Berkeley, nonprofit housing developers face challenges in locating building sites.

An affordable alternative to larger projects that require state and federal subsidies are ADU's. ADU's are a source of affordable housing in single and multi-family neighborhoods. There are many potential sites in Berkeley for these ADU's. Furthermore, both state and local codes have now made the development of ADU's easier.

The City's single- and multi-family zoned areas provide a significant opportunity to build new, and preserve existing, affordable housing. Encouraging accessory dwelling units can also be seen as a displacement prevention strategy. The purpose of the pilot program would be to empower Berkeley homeowners to play a more direct role in providing affordable housing, which, in the long run, could also add to their home values. In developing this program, the Council may wish to consider whether homeowner incomes should also be considered in selecting program participants.

Providing subsidies to owners could also be a way to help lower-income homeowners if there is an income restriction on homeowners who participate.

ADU DEVELOPMENT COSTS

At this time, it is difficult to estimate per unit costs due to the following variables:

Costs for New Construction:

- Construction Costs and Contractor's overhead and profit – These costs are highest for stand-alone ADU's and lowest for a remodel of an existing home. If the homeowners do some of the work themselves, this amount can be lower.
- Soft Costs – These can include the design and possibly an engineering study.

Fees – mostly charged by the City of Berkeley. Would the City want to include fee waivers as part of the financial assistance provided to the owner? Costs to Legalize a Unit:

- If the unit already conforms to current building codes, then the main cost would be to assess fees that should be paid. The City can also decide if any penalty would be charged, or if the offer to provide the ADU at a restricted rent could offset any penalty fees.
- If the building does not conform to current code, it will be necessary to determine what the cost could be to bring the unit up to code. It is possible that some City funds could be allocated to help a homeowner (and the City) make this determination.

ENVIRONMENTAL SUSTAINABILITY

Recommendations regarding the implementation of an ADU Pilot Program do not impact the environment directly. However, the production of lower-income housing, particularly when in areas that are walkable and transit accessible, has the potential of reducing vehicle miles traveled and greenhouse gas emissions and, therefore, aligns with Berkeley's Climate Action Plan goals.

RATIONALE FOR RECOMMENDATION

We need to think of creative ways to help Berkeley residents afford housing.

ALTERNATIVE ACTIONS CONSIDERED

As discussed above, the HAC studied the recommendation provided in the referral to establish a pilot ADU program solely to house the homeless, but questioned the feasibility of this approach. The target population includes a high percentage of individuals or households earning well below 30% of the Area Median Income, and this would provide limited financial incentive to prospective ADU homeowners.

New multifamily projects as well as a small sites program are two other methods to provide affordable housing. An ADU affordable housing program can supplement these approaches.

CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

This referral is currently ranked thirteenth on the Council's Reweighted Range Voting referrals adopted on June 12, 2018 and staff will begin working on it after higher ranked priorities. This item was initially referred by Council to the Housing Advisory Commission and City Manager on December 5, 2017. Housing staff are currently working on the Council's top priorities on the Housing Action Plan adopted on November 28, 2017.

CONTACT PERSON

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