



Legislation Details (With Text)

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**Title:** Adopt resolution modifying the established development impact fee structure for Accessory Dwelling Units in accordance with California Government Code Section 65852.2 pertaining to Accessory Dwelling Units. (Citywide)

**Sponsors:** Development Services

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**Attachments:** 1. 101017-H-3sr&att.pdf, 2. 101017-H-3 PowerPoint.pdf

Date	Ver.	Action By	Action	Result
10/10/2017	1	City Council	received and filed	

Adopt resolution modifying the established development impact fee structure for Accessory Dwelling Units in accordance with California Government Code Section 65852.2 pertaining to Accessory Dwelling Units. (Citywide)

An Accessory Dwelling Unit (ADU), more commonly known as a “granny flat,” refers to a second dwelling unit on a property that is developed with only an existing single-family residence. An ADU is not considered an additional unit for density purposes. It provides complete independent living facilities that includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

In 2016, Governor Brown signed two bills (Senate Bill 1069 and Assembly Bill 2299) amending Government Code Section 65852.2 pertaining to ADUs. These State regulations went into effect on January 1, 2017, and require cities to ministerially approve ADUs when they meet new State regulations. Existing Ordinances that were not in full compliance with the new regulations, including the City’s, became null and void. Until the City adopts its own local Ordinance, the more permissive regulations of the State are applied. A third bill (Assembly Bill 2406) allowed local agencies to create Junior Accessory Dwelling Units (JADU) (Government Code 65852.22). Government Code Sections 65852.2 and 65852.22 are included in Exhibit A for reference.

On February 21, 2017, the City Council directed staff to review the new State regulations pertaining to ADUs and to prepare a draft Ordinance for consideration. The draft Ordinance repeals and replaces the existing secondary housing (“granny flat”) zoning regulations in its entirety (Section 21.51.275 of the Long Beach Municipal Code) and updates other sections of the Zoning Code (Title 21) to ensure consistency with the proposed ADU regulations.

On June 1, 2017, the Planning Commission held a public hearing on a Zoning Code Amendment pertaining to ADUs. The Planning Commission received a staff presentation, took public testimony, closed the public hearing, deliberated, and acted to continue the item to July 6, 2017. The Planning Commission directed staff to provide additional analysis on the proposed maximum unit size of an ADU and the impact of requiring additional parking.

On July 6, 2017, the Planning Commission held a continued public hearing on ADUs. The Planning Commission received a staff presentation, took additional public testimony, closed the public hearing, deliberated, and in its advisory capacity to the City Council, found the amendment consistent with the General Plan and recommended approval. The Planning Commission unanimously recommended that the City Council approve the zoning code amendment with one modification to reduce the maximum allowed size of ADUs to be no more than 50 percent of the primary dwelling or up to a maximum of 1,000 square feet, whichever is less. The following provides an overview of the proposed regulations in the draft Ordinance as recommended by the Planning Commission.

The State mandates that cities allow for ADUs in single-family zones. However, cities may also allow for ADUs in multi-family residential zones. Areas may be designated based on criteria that can include, but is not limited to, the adequacy of water and sewer services and the impact of ADUs on traffic flow and public safety. The proposed Ordinance would allow ADUs as an accessory use in 17 residential zoning districts, as well as Planned Development Districts, or Specific Plans, or subareas thereof that allow for single-family residential dwellings (refer to Table 31-1 in the City Council Ordinance). Exceptions apply when these areas are within either a designated parking impacted area or the Coastal Zone.

An ADU must conform to all development standards of the zone in which the property is located including, but not limited to, lot coverage, floor area ratio, and landscape requirements, except as indicated in the proposed Zoning Code amendment.

State law prohibits requiring parking for ADUs located within one-half mile of public transit. Staff determined that nearly all residential property is within a one-half mile radius of public transit stops within the City (see Exhibit B - Long Beach Transit Stop Map) and would be exempt from providing parking for an ADU. Therefore, no parking requirement is recommended for ADUs located outside of the Coastal Zone and parking impacted areas. The City is able to require parking within the Parking Impacted Areas because State law permits cities to determine where ADUs may be allowed based on criteria that includes the impact of ADUs on traffic flow and public safety. Parking Impacted Areas were first established in 1988 by the City Council based on the fact that on-street parking conditions were creating a detrimental condition affecting health, safety, and welfare of the community, in addition to impeding traffic flow. Therefore, it is proposed that ADUs without parking be prohibited within parking impacted areas. In addition, parking may be required within the Coastal Zone because the new State regulations pertaining to ADUs do not supersede the California Coastal Act. Allowing ADUs without parking would be inconsistent with the California Coastal Act to maximize public access to the coast. Access to the coast would be negatively impacted by inadequate parking resources. Replacement parking is

recommended in all cases where a garage for the primary unit is converted to an ADU.

The proposed amendment establishes two categories of ADUs: (1) a “Limited ADU,” and (2) a “Conforming ADU.” The two categories are intended to distinguish the different regulations (i.e. State-mandated or local ordinance regulations), applicable to each type of unit.

For further information on the two categories of ADUs, areas allowed, development standards, JADUs, parking, and other state mandates, refer to Exhibit C for a Summary of ADU development standards and Exhibits D and E for the June 1, 2017 and July 6, 2017, Planning Commission staff reports. As a legislative act, there are no required findings for a Zoning Code amendment. However, a Zoning Code amendment must be consistent with the General Plan. The proposed Ordinance not only implements State law, but is consistent with the Housing Element, Mobility Element, and Local Coastal Program (Exhibit F - General Plan Conformance).

The proposed Ordinance is tailored to the City’s local development patterns and conditions. It builds upon State law to establish standards that preserve and protect the character of residential neighborhoods while encouraging the responsible development of ADUs. The Planning Commission recommends that the City Council determine the amendment is consistent with the General Plan and adopt an Ordinance approving Zoning Code Amendment No. 17-010 to amend Title 21 pertaining to Accessory Dwelling Units and the related sections as proposed.

In general, new development creates additional demands for services provided including transportation, police, fire, and parks and recreation facilities. To account for these demands, the City Council has adopted various Development Impact Fees (DIF) to be collected for new construction projects. The State law pertaining to ADUs reestablishes that all impact fees must be charged in accordance with the State Fee Mitigation Act. In response, all affected City Departments that have established DIFs are recommending modifying the fees charged for the construction of ADUs to ensure the fees are commensurate with the expected size of the units and expected occupancy rates of the units. The suggested fees are less than typical fees charged for larger-sized dwelling units. As nexus studies are conducted in the future, there may be further suggested changes to the fee structures for ADUs. These Departments include: 1) Public Works; 2) Parks, Recreation and Marine; 3) Police Department; and, 4) Fire Department. The proposed fees are detailed in Exhibit G.

Public hearing notices were published in the Long Beach Press-Telegram and distributed on September 25, 2017 and September 30, 2017, and no responses were received as of the date of preparation of this report. Any responses and comments received will be conveyed to the City Council prior to the public hearing.

In accordance with the Guidelines for Implementation of the California Environmental Quality Act, a Statutory Exemption (SE-17-136) was issued for the proposed project (Exhibit H - Statutory Exemption SE-17-136). The project qualifies for a statutory exemption per Section 15282 (h), which provides that, “an Ordinance regarding second units in a single-family or

multi-family residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code.” Pursuant to Section 15273, CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies, including obtaining funds for capital projects, necessary to maintain service within existing service areas.

This matter was reviewed by Assistant City Attorney Michael J. Mais on September 20, 2017 and by Revenue Management Officer Geraldine Alejo on September 26, 2017.

City Council action is requested on October 10, 2017, since the City’s current Ordinance is null and void. There are a number of property owners currently awaiting the local regulations to develop an ADU on their property. Long Beach Municipal Code Section 21.25.103.A.1 of the Zoning Regulations requires a hearing on this item by the City Council within 60 days of the Planning Commission hearing, which took place on July 6, 2017. Although October 10, 2017 exceeds 60 days from July 6, 2017 this date was the first available opportunity to conduct a hearing.

To ensure that the development impact fees charged for ADUs are proportional to the demand for new services as required by State law, modifications to the established DIF structure are proposed as part of this recommendation (Exhibit G - Interim ADU Development Impact Fees). The proposed Interim ADU DIFs will reduce the total mitigation fees applied to each ADU. The total revenue impact of the proposed fee modifications is not known at this time; however, revenues for each of the four development impact fees that are collected within the Capital Projects Fund (CP) in the Public Works, Fire, Police, and Parks, Recreation and Marine Departments are expected to decline.

A comprehensive update to the ADU DIFs is anticipated later in FY 18. A full assessment of the fiscal impact of further modifications to the fee structure, if any, will be provided to City Council at that time.

Approve recommendation.

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APPROVED:

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CITY MANAGER

