



Office of the City Manager

INFORMATION CALENDAR

March 30, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services

Subject: Referral Response: Second Dwelling Unit/Accessory Dwelling Unit Pilot Program to House the Homeless

SUMMARY

Jurisdictions across California are implementing programs to develop Second Dwelling Units and/or Accessory Dwelling Units (collectively referred to as “ADUs” for the purposes of this report) as strategies to house low-income or homeless households. Programs vary in scope and offer a range of financial and programmatic support to assist local homeowners with developing an ADU and/or becoming landlords.

This report responds to additional questions raised by the Housing Advisory Commission (HAC) and provides an overview of existing programs to inform the City’s strategy for a pilot program. A review of research and best practices from other cities indicates three viable pilot options for the City to consider:

- Providing predevelopment/construction loans that will be forgiven in exchange for renting to housing voucher recipients;
- Providing predevelopment/construction loans to low-income homeowners without any rental restrictions; and
- Funding a technical assistance program to assist homeowners in navigating the design, funding, permitting and construction of an ADU. These services may be offered in exchange for renting to a low-income household and/or offered exclusively to low-income homeowners.

CURRENT SITUATION AND ITS EFFECTS

This report responds to referral # PRJ0012432 that originally appeared on the agenda of the December 5, 2017 Council meeting and was sponsored by Councilmember Bartlett.

The referral was initially sent to the HAC for analysis and recommendations. The HAC recommended expanding the referral to include Below Market Rate (BMR) ADUs as an option for the pilot program. They also provided several questions to further inform the

referral. The HAC's recommendations were adopted by Council on July 24, 2018 and are incorporated into this report.

Council Referral

Council's referral outlined the creation of pilot program to provide the following forms of technical assistance and incentives to homeowners in exchange for housing homeless families/individuals for a specified number of years:

1. Homeowners without additional units – to provide them with technical and financial assistance with the permitting and construction of new second units and ADUs
2. Homeowners with unpermitted second units – to provide them with avenues for legalization as well as financial and technical assistance in order to convert unpermitted units into permitted units.

HAC's Referral Questions

The HAC identified several questions to inform a pilot program. Responses are provided in-line.

- a) What are the types of incentives that would be required to attract homeowners to add ADU's?
 - a. Research indicates additional incentives beyond financial support may be needed to attract homeowners to build an ADU and become landlords. The City of Los Angeles and San Mateo County are partnering with nonprofit housing organizations to create "one-stop shops" that support homeowners through all aspects of development, financing, and tenant support. Additional incentives identified to attract homeowners include:
 - i. Free project management
 - ii. Affordable design and construction services (included pre-approved and/or prefabricated plans)
 - iii. Optional financing tailored to ADUs via Community Development Financial Institution (CDFI) partners
 - iv. Landlord training and tenant support services
 - v. Transparent and easy to access information (i.e., websites, FAQs)
- b) Can staff estimate the number of unpermitted units currently in Berkeley?
 - a. This cannot be accurately determined. A potential amnesty program may provide insight into types of unpermitted ADUs in Berkeley. Funds can be redistributed for the development of new construction ADUs or other affordable housing uses if no homeowners choose to participate in an amnesty program.
- c) How might an amnesty program work?
 - a. Los Angeles County included an option for unpermitted ADUs to receive funding in their 2017 pilot. LA County staff indicated they were able to

attract one unpermitted ADU to the pilot but it was difficult to find willing participants. This may also be in part because unpermitted units were required to be vacant to participate in their program. As of January 1, 2020 State law does not require an applicant to correct nonconforming zoning conditions. At a minimum, the property should be inspected for all applicable code compliance standards and issued the appropriate permits (provided it does not violate State provisions).

- d) How will the City monitor the affordability requirements required by this program over time?
- a. This will likely be determined by the scope and length of program requirements. HHCS dedicates one FTE each to monitor the affordable units created through the Housing Trust Fund (HTF) and Below Market Rate (BMR) programs, respectively. Launching a new program may incur additional staff costs to ensure proper monitoring.
- e) To what extent might this approach increase the inventory of affordable housing in Berkeley?
- a. Counting ADUs towards the City's affordability goals will likely be dependent on the nature and length of any potential deed restriction. According to an HCD FAQ:
 - i. *Accessory Dwelling Units or Second Units are not automatically considered affordable to Low income households. Just like other housing types, the affordability of Accessory Dwelling Units (ADU) can be demonstrated by a deed restriction, proposed rents or sales prices, or a survey of comparable units that show what income level the ADU would be affordable to, for example, Very Low, Low, Moderate, or Above-Moderate income households.*
 - b. The Planning Department will begin to count new ADUs created in 2021 towards the cities general RHNA numbers. Staff would coordinate any deed restrictions created through the pilot to be counted towards the applicable RHNA category.
- f) Would the provision of housing vouchers encourage participation?
- a. The provision of housing vouchers alone may not be enough to encourage participation. Many homeowners are not familiar with the administration required to accept housing vouchers and may find it to be a disincentive without sufficient training and support. The nonprofit LA Mas partnered with Los Angeles County for an ADU pilot with housing vouchers attached. In addition to providing ongoing support, LA Mas conducted detailed interviews and a vetting process with each applicant to ensure they understood and aligned with the goals of renting to voucher recipients.
- g) Are fair housing laws applicable to ADU units? If not, can these units still be counted towards meeting RHNA goals?
- a. All rented ADU's must comply with Fair Housing laws.
 - b. HCD's Annual Housing Element Progress Report instructions clearly state that second units are considered development that can count toward

satisfaction of RHNA. See question (f) for applicability to RHNA affordability goals.

- h) What could be the limit of financial assistance per unit?
 - a. The Council referral establishes \$75,000 for new construction and \$50,000 to amnesty for unpermitted units. Financial assistance for ADU programs provided by jurisdictions ranges from \$25,000-\$75,000. Jurisdictions also reduce costs by providing additional incentives including expedited review and pre-approved plans/designs.
 - b. This amount may not be enough to cover total construction cost and will need to be supplemented with the homeowner's own investment such as cash from a Home Equity Line of Credit (HELOC). Other incentives like providing technical assistance during predevelopment/feasibility phase would be an additional incentive.
- i) What could be the amount of fee waivers across different ADU prototypes?
 - a. State law exempts ADUs up to 750 sq. ft. from impact fees and requires impact fees for larger ADUs that are proportional to the square footage of the primary residence. Utility connection fees or capacity charge must be "proportionate to the burden" of the ADU and may require new or separate utility connections.
 - b. Fees applicable to developing an ADU are tied to the costs of the necessary health and safety inspections. Financial assistance to offset fees and other soft costs should be considered part of the incentive for participation.
 - c. Marin County was the only jurisdiction to offer a fee waiver (capped at \$1,500) for participation in its ADU program.
- j) What could be the duration of rent restrictions on the ADU unit?
 - a. Established affordability standards for ADU programs with rent restrictions vary by jurisdiction. Compliance periods range between five and 20 years. LA Mas, the Los Angeles County nonprofit partner, did extensive outreach and focus groups with over 100 homeowners and identified five years to be the appropriate target to facilitate homeowner participation.
- k) 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?
 - a. Yes. The City currently records Deeds of Trust to secure loans made through the Senior and Disabled Home Rehabilitation loan program. The City previously issued Deeds of Trust to secure loans provided to the multi-family rental rehabilitation and first-time homebuyers programs in the 1990s and 2000s.
- l) What could trigger a loan repayment? One example could be a decision not to rent out the unit.
 - a. Not renting the unit or not following program guidelines, including renting to eligible households and/or voucher holders would trigger a loan repayment. The program should be structured to include interest on any

defaulted principle loan. Compliant loans could be forgiven or collected at time of sale depending on the intent of the program.

Creating an ADU pilot program is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

BACKGROUND

ADUs are one form of relatively low-cost housing that can help improve the housing landscape. Starting in 2016, State lawmakers passed several pieces of legislation to encourage the production of ADUs. Changes to ADU laws effective January 1, 2021, further reduce barriers, better streamline approval processes, and expand capacity to accommodate the development of ADUs and junior accessory dwelling units (JADUs). The City Council adopted an urgency ordinance on December 10, 2019 to comply with State laws and adopted an urgency ordinance extension on January 21, 2020. These provisions expired in December 2020 and the City now defers to State law to guide ADU development. On January 22, 2021, Council adopted a short term referral to create a local ADU ordinance that addresses fire hazard safety and preparedness.

A study by the UC Berkeley Turner Center for Housing Innovation noted that accessing the necessary financing to build an ADU remains a significant barrier for many homeowners¹. High construction costs in the Bay Area add to this barrier compared to the rest of the state.

ENVIRONMENTAL SUSTAINABILITY

Facilitating ADU development can unlock underutilized land and boost “gentle density”, housing type diversity, and affordability and opportunity for less affluent, renter households². These benefits are consistent with reduction of greenhouse gases and broader environmental benefits associated with infill development. This could be an especially effective strategy in Berkeley due to the high proportion of lots zoned for single-family homes.

POSSIBLE FUTURE ACTION

The initial Council referral called for the pilot to evaluate the criteria identified below. Possible future actions for a pilot are considered within this framework.

- What types of incentives will be enough to attract homeowners:
 - As identified in HAC referral response (a) above and from research, financing is a primary barrier but additional incentives to support

¹ <https://turnercenter.berkeley.edu/research-and-policy/reaching-californias-adu-potential-progress-to-date-and-the-need-for-adu-finance/>

² <https://www.enterprisecommunity.org/resources/overcoming-barriers-bringing-adu-development-scale-11049>

homeowners will likely be required for a successful program. The current identified incentives of \$75,000 (new construction) and \$50,000 (unpermitted code compliance) is on the higher side of staff's assessment of jurisdictional incentives and may be appropriate given Berkeley's higher development costs relative to the State.

- Adjusting the City's overall approach to ADU's with preapproved plans and expedited processes may also assist homeowners with decision making and reduced costs from expedited timelines.
- Per HAC referral response (f) and (j) above, the provisions of housing vouchers as a program requirement will require landlord training and technical assistance to appeal to most homeowners. The duration of affordability restrictions will also be a factor.
- How to conduct long term monitoring:
 - This will be dependent on the requirements and length of the program as noted in HAC referral response (d) above. Deed restrictions may provide additional security in addition to monitoring. Additional staffing capacity or a nonprofit partner may be required for long term monitoring.
- To what extent might this approach increase housing stock:
 - ADU development is generally accepted as "best practice" to increase housing stock in areas with single-family zoning such as Berkeley.
 - New ADU units can count towards RHNA goals.
- Replicability/scalability
 - This will ultimately be determined by the financial and staff commitments to a project. Other jurisdictions including Los Angeles, Santa Clara County, and Monterrey County partner with local housing non-profits to expand program capacity and provide homeowners with hands-on assistance through the development and rental process.
 - Partnering with CDFI's to provide financial products tailored to ADUs may be a long-term solution to supplement any City-funding initiatives as seen in Los Angeles.

Alternative: Low-Income Homeowner Pilot

An alternative ADU strategy could mirror programs in Alameda County and Denver, CO focused on providing loans to low- and moderate-income homeowners. This

in turn enables the homeowners to rent an ADU to supplement their monthly income while expanding the neighborhood's affordability, as well as boosting their home equity by increasing the property value. These strategies may also be targeted to assist seniors age in place by allowing new space for family and/or caregivers. It may also help improve aging housing stock (through conversion ADUs rather than detached, new construction).

Rent restrictions could be placed at higher income targets (i.e., 80-120% AMI) to allow for a more stable income flow for the owner. This would aid homeowners without significant liquid assets or who do not meet the criteria of traditional financial products (i.e., credit) to participate in the program.

Assisting seniors to age in place and/or providing additional income for low-income homeowners may also be considered an anti-displacement strategy.

Alternative: Nonprofit Managed Technical Assistance

Several jurisdictions fund nonprofits to offer technical assistance and project management in lieu of direct financial support (noted above in Current Situation and Effects). This is due to the complexity of the development process as well as navigating the housing voucher system. Even City-offered financial assistance will likely benefit higher-income homeowners. Research indicates that most homeowners will likely need to leverage either cash/liquid assets or the ability to pay off loans via Home Equity Lines of Credit (HELOC) to finance an ADU. This will likely be true even with City offered financial assistance given there are currently not financial products tailored towards ADU construction. This could still be a worthy trade off if homeowners agree to support housing voucher households. However, the incentives offered by technical assistance and project management could ultimately be more valuable to homeowners who are already leveraging assets.

LA Mas indicated homeowners needed significant assistance through all aspects of the development process. Providing designs and pre-approved plans, project management (securing permits, etc), and partnering with CDFIs for tailored financing options are examples of key factors to solicit participation in the program in lieu of direct financial assistance.

Alameda County released in RFP in January 2021 to fund a third-party to develop and manage a technical assistance program for ADUs. The RFP is intended to create a pilot program to assist homeowners in unincorporated Alameda County with technical assistance on the design, permitting, and project management involved with building an ADU on their properties.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The Council referral states: "The Pilot Program will require a one-time program budget of \$500,000, and an additional \$50,000 for administrative costs. Funding for the

program would be drawn from U1 funds. The City should provide a maximum subsidy of \$75,000 per unit to build 2-3 new ADUs. The City should provide a maximum subsidy of \$50,000 per unit to preserve 2-3 existing unpermitted.”

This funding strategy mirrors Los Angeles County’s pilot program. Staff identified it is on the higher side of subsidies on a per project basis. A list of existing subsidies may be found in Attachment 1. Identifying a lower subsidy and partnering with a local nonprofit to assist with project management may be more beneficial to homeowners given the complexities of local development. An RFI may inform potential costs for a nonprofit housing/design partner.

Funding to implement a pilot program has yet to be identified. Possible source of local funds may include FY 2023/2024 Measure U1. Council would need to identify an alternative source to implement a pilot program prior to this time period. Council would need to identify an alternative funding source to implement a pilot program prior to this time period.

CONTACT PERSON

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Attachments:

- 1: ADU Affordability Programs and Incentives by Jurisdiction
- 2: ADU Best Practices by Jurisdiction
- 3: Original Referral Report from December 15, 2017
- 4: Housing Advisory Commission Referral Response from July 24, 2018

Affordability in ADUs

The jurisdictions below are working on affordability in ADUs.

If *your* jurisdiction is working on affordability in ADUs but isn't on the list, please email info@aducalifornia.org.

List of Jurisdictions

- | | |
|-------------------|---------------|
| 1. Alameda County | 6. Napa City |
| 2. Denver | 7. Portland |
| 3. LA City | 8. San Jose |
| 4. LA County | 9. Santa Cruz |
| 5. Marin County | |

Highlights of ADU Affordability by Jurisdiction

California Jurisdictions	Notes
Alameda County	<p>Alameda County offers loans up to \$75,000 to homeowners who qualify for the creation of an ADU or JADU.</p> <p>The loan application will be considered if the creation of the ADU will lower the burden of housing costs for a low-income homeowner by providing additional rental income and allowing the homeowner to continue to live safely in their home.</p> <p>Alameda County's website provides a couple of helpful links and handouts on ADU development and regulations.</p>
East Palo Alto	<p>EPA CAN DO ADU has an ADU Pilot Program to offer project management beginning Jan. 2020 that will run for 2 years for homeowners earning or renting to households <80% AMI.</p> <p>It will focus for the first year on East Palo Alto and roll out county-wide by the second year.</p> <p>A coalition of local nonprofits and a resident task force prepared strategic policy recommendations for amnesty recommendations and anti-displacement.</p> <p>Rebuilding Together Peninsula and other local nonprofits are concluding 3-pilot garage conversion to legalize unpermitted units to prevent displacement.</p>

LA City	<p>The City of LA developed the LA ADU Accelerator Program to provide financial incentives to build ADUs.</p> <p>In 2018, Bloomberg philanthropies donated \$1 million dollars which the city of LA financial matched to help build ADUs and give grants to homeowners of between \$10,000-\$30,000 if they agree to let the units be used to keep people off the streets for 3-5 years</p>
LA County	<p>LA County has a pilot program where the county will provide up to \$75,000 to build 2-3 new ADUs and up to \$50,000 to preserve 2-3 unpermitted ADUs in the form of a forgivable loan with the commitment to rent the ADU to low-income families or individuals.</p> <p>Many organizations, such as LA Mas, tackle outreach and provide financial assistance to participate in the Backyard Homes project.</p> <p>Homeowners are required to rent to a Section 8 tenant for a minimum of 5 years.</p>
Marin County	<p>The Rental Rehab Loan program provides technical assistance and loans of \$25,000 or \$30,000 based on whether or not it is to fix up an existing rental unit or build a new unit for the creation of legal rental units for Section 8 voucher holders.</p>
Napa City	<p>Napa City has a junior unit program that offers a forgivable loan as long as homeowners offer affordable rent for eligible tenants for up to 20 years.</p>
San Jose	<p>Yes, in my backyard is a program that provides property owners a forgivable loan of up to \$20,000 under the terms that the homeowner restrict the unit's rent to a low to moderate household income level for 5 years</p>
Santa Cruz	<p>The County offers a forgivable loan program that loans up to \$40,000 for those who are willing to rent the ADU to low income households at affordable rents for up to 20 years.</p>

Jurisdictions Outside California	Notes
Denver, CO	<p>Denver offers a forgivable loan as long as the homeowner ensures that the secondary tenants are low-income and that the rent for the ADU does not exceed 80% of the area median income maximum rent for 25 years.</p> <p>Homeowners may be eligible for a loan up to \$25,000 to build an ADU.</p>
Portland, OR	<p>In Multnomah County, Portland launched a pilot that built ADUs in four private backyards for homeless families to live in, rent-free, for five years</p>

Source: Baird + Driskell Community Planning

ADU Best Practices

Does *your* jurisdiction have any of the following ADU Best Practices? Or other tools that should be highlighted?
Please let us know by emailing info@aducalifornia.org!

Jurisdictions with Good ADU Practices

- | | |
|------------------------------------|----------------------------|
| 1. Alameda County | 13. Napa City |
| 2. Austin | 14. Portland |
| 3. Campbell | 15. San Diego County |
| 4. Denver | 16. San Francisco |
| 5. East Palo Alto | 17. San Jose |
| 6. Encinitas | 18. San Luis Obispo County |
| 7. Housing Trust of Silicon Valley | 19. San Mateo County |
| 8. LA Mas | 20. Santa Barbara |
| 9. Los Angeles | 21. Santa Cruz County |
| 10. Los Angeles County | 22. Seattle |
| 11. Marin County | 23. Napa/Sonoma County |
| 12. Montgomery County, Maryland | |

Source: Baird + Driskell Community Planning

Good ADU Practices by Jurisdiction Checklist ✓

California Jurisdictions	Loan Programs	Outreach	Pre-Approved ADUs/ Prefab	Financial Assistance	Grants/ Forgivable Loans	Websites
Alameda County	<input type="checkbox"/>					<input type="checkbox"/>
Campbell						
Clovis	<input type="checkbox"/>		<input type="checkbox"/>			<input type="checkbox"/>
East Palo Alto		<input type="checkbox"/>				<input type="checkbox"/>
Encinitas		<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>
Housing Trust of Silicon Valley						
LA Mas						
Los Angeles County	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>
City of LA		<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marin County	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>
City of Napa					<input type="checkbox"/>	
San Diego County		<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>
San Francisco	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
San Jose	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
San Luis Obispo County		<input type="checkbox"/>				
San Mateo County		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>
Santa Barbara						
Santa Cruz County		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Napa/Sonoma County						

Source: Baird + Driskell Community Planning

Jurisdictions Outside California	Loan Programs	Outreach	Pre-Approved ADUs/ Prefab	Financial Assistance	Grants/ Forgivable Loans	Websites
Austin						☐
Denver	☐			☐	☐	☐
Mongomery County, Maryland						
Portland	☐	☐	☐		☐	☐
Seattle						

Source: Baird + Driskell Community Planning

California Jurisdictions	Manual/Workbook	Info Sheet (fact sheet)	Application Checklist	Multicity Collaboration / efforts	Fee Waivers	Process Improvement	Amnesty
Alameda County		☐					
Campbell							
Clovis		☐	☐	☐			
East Palo Alto	☐	☐		☐			
Encinitas	☐	☐	☐	☐	☐	☐	☐
Housing Trust of Silicon Valley							
LA Mas							
Los Angeles County	☐	☐		☐		☐	
City of LA	☐	☐	☐	☐		☐	
Marin County				☐	☐	☐	☐
City of Napa				☐			
San Diego County	☐	☐	☐	☐	☐		
San Francisco	☐	☐	☐	☐	☐	☐	☐
San Jose	☐	☐	☐	☐		☐	☐
San Luis Obispo County		☐			☐		
San Mateo County	☐	☐	☐	☐	☐	☐	☐
Santa Barbara							
Santa Cruz County	☐	☐		☐			☐
Napa/Sonoma County							

Source: Baird + Driskell Community Planning

Jurisdictions Outside California	Manual/Workbook	Info Sheet (fact sheet)	Application Checklist	Multicity Collaboration / efforts	Fee Waivers	Process Improvement	Amnesty
Austin	☐	☐	☐	☐	☐		
Denver			☐				
Mongomery County, Maryland							
Portland		☐	☐	☐	☐	☐	
Seattle							

Source: Baird + Driskell Community Planning

Good Practices Highlights by Jurisdiction

California Jurisdictions	Notes
Alameda County	<ul style="list-style-type: none"> ● Home Preservation Loan Program (HPLP) assistance that offers a loan up to \$150,000 to assist low-income homeowners to rehabilitate their homes and other necessary improvements <ul style="list-style-type: none"> ○ Aimed at households that are ≤80% of AMI ● Up to \$75,000 of the maximum loan amount may be used for the creation of an ADU or JADU <ul style="list-style-type: none"> ○ Loan applications only considered if building an ADU will lower housing cost burdens
Campbell	<ul style="list-style-type: none"> ● Section 21.23.090 - Development Policy <ul style="list-style-type: none"> ○ A single-family residential subdivision that results in 5 or more parcels must follow the requirements that 20% of the parcels must prepare for future creation of an interior ADU by pre-installing electrical, natural gas, domestic water, and sanitation utilities necessary to later accommodate a bathroom and kitchen ○ Or the 20% of the parcels may already have an ADU constructed <i>concurrently</i> with the primary dwelling unit ● Currently working on a web page full of ADU designs <ul style="list-style-type: none"> ○ Also working to update their webpages
Clovis	<ul style="list-style-type: none"> ● Cottage Home Program offers 3 pre-approved ADU plans <ul style="list-style-type: none"> ○ A preliminary meeting and evaluation are required to see if the property qualifies and which layout is best for the Cottage Home ○ Permits are issued roughly 10 day after application is submitted ○ Self Help Enterprises offers a max \$80,000 loan amount to homeowners who meet income, credit worthiness, and property ownership criteria

<p>East Palo Alto</p>	<ul style="list-style-type: none"> ● EPA CAN DO has an ADU Pilot Program that will focus on EPA in Year 1 and then be implemented county-wide by Year 2 <ul style="list-style-type: none"> ○ Beginning Jan. 2020 for 2 years, homeowners who are earning or renting to household <80% AMI will receive project management ○ Coalition of local non-profits and resident task force prepared strategic policy recommendations for amnesty recommendations and anti-displacement ● Rebuilding Together Peninsula and other local non-profits are concluding 3-pilot garage conversions to legalize unpermitted units to prevent displacement
<p>Encinitas</p>	<ul style="list-style-type: none"> ● Permit Ready ADU program (PRADU) <ul style="list-style-type: none"> ○ 8 Pre-approved ADU plans that include studio, one-bedroom, two-bedroom, and three-bedroom units ● <i>All</i> development service department fees are waived for both ADUs and JADUs <ul style="list-style-type: none"> ○ Offers Housing for Generations (ADU workshops) throughout the year → had 4 meetings on learning about ADUs
<p>Housing Trust of Silicon Valley</p>	<ul style="list-style-type: none"> ● Housing Trust of Silicon Valley was awarded a \$120,000 grant from Wells Fargo to help the Small Homes, Big Impact (SHBI) program <ul style="list-style-type: none"> ○ SHBI is a pilot program that offers educational workshops and financial assistance <ul style="list-style-type: none"> ■ The ADU program holds quarterly ADU workshop with over 60 attendees ● The financial assistance program will consist of a planning report grant and a construction loan
<p>LA City</p>	<ul style="list-style-type: none"> ● CityLab UCLA provides a guidebook to ADUs in the city of LA ● Looser regulations led to increase in ADU permits <ul style="list-style-type: none"> ○ About 13,000 additional permit requests since 2018 ● LA ADU Accelerator Program provides financial incentives to homeowners who own or want to build an ADU ● Bloomberg Philanthropies donated \$1 million and grants \$10k-\$30k if homeowners agree to let the ADU to housing insecure tenants for up to 3-5 years

<p>LA County</p>	<ul style="list-style-type: none"> ● Second Dwelling Unit (ADU) Pilot Program: <ul style="list-style-type: none"> ○ Provides up to \$75k to build 2-3 new ADUs and up to \$50k to preserve 2-3 unpermitted ADUs in the form of a forgivable loan ○ Must commit to renting the ADU to a homeless family/individual or participant in the housing voucher program (must be ≤80% of the AMI) ● Many organizations in LA County tackle community outreach and provide financial assistance <ul style="list-style-type: none"> ○ LA Mas → to participate in the Backyard Homes project, homeowners are <i>required</i> to rent to a Section 8 tenant for a minimum of 5 years <ul style="list-style-type: none"> ■ Backyard Homes is an incentive program offering optional financing, design, permitting, and construction support to homeowners
<p>Marin County</p>	<ul style="list-style-type: none"> ● The Rental Rehab Loan program provides technical assistance and loans to rehab an existing rental unit or to build a new unit to qualified very-low income homeowners <ul style="list-style-type: none"> ○ \$25k to rehab an existing rental unit ○ \$30k to build a new unit ○ For Section 8 voucher holders ○ Marin County offers fee waivers capped at \$1500
<p>Napa City</p>	<ul style="list-style-type: none"> ● Napa City has a junior unit program to create units that are affordable to households whose income is ≤80% of AMI <ul style="list-style-type: none"> ○ Maximum monthly rent shall be set at 1/12th of 30% of 60% of AMI for 10 years ○ Forgivable loan up to \$40k ○ Every year for 10 years, if owner is compliant, 10% or up to \$4k of the loan will be forgiven

<p>San Diego County</p>	<ul style="list-style-type: none"> ● San Diego County passed a fee waiver that increased permit applications ● SD county provides a website that includes information such as an application checklist, new pre-approved ADU plans, and more handouts <ul style="list-style-type: none"> ○ Pre-approved ADU plans include 6 different building plans ● Organizations such as ADU Coalition of San Diego hosts workshops offering technical assistance through the permitting process, a cost calculator, and service hours to answer any questions
<p>San Francisco</p>	<ul style="list-style-type: none"> ● San Francisco provides a website with all necessary information in an organized fashion, utilizing specific tabs for different information <ul style="list-style-type: none"> ○ Cost calculator, a handbook that has a clear run-down of the process of building an ADU ● Offers a “no waiver” and “waiver” ADU program <ul style="list-style-type: none"> ○ Homeowner service hours to plan review prior to or when filing a permit
<p>San Jose</p>	<ul style="list-style-type: none"> ● Yes, In My Backyard is a program that provides property owners a forgivable loan up to \$20k under the terms that the homeowners restrict the unit’s rent to a low to moderate household income level for 5 years ● San Jose offers a city-funded loan program that provides forgivable loans up to \$20k to qualifying homeowners to build ADUs for affordable housing <ul style="list-style-type: none"> ■ San Jose County has an ADU ally which provides additional help to homeowners
<p>San Luis Obispo County</p>	<ul style="list-style-type: none"> ● SLO has waived impact fees and increased ADU application approvals ● SLO invites lots of community input, hosting community meetings that allow community members to voice opinions ● SLO offers a GIS map that allows homeowners to look up property information ● Offers additional resources to research the permit process and property information

<p>San Mateo County</p>	<ul style="list-style-type: none"> ● Offers a second unit workbook with information on the process of building an ADU from basic information to how to plan and design an ADU ● SMC has many organizations that work on community outreach such as Hello Housing and Home for All which offers fee waivers and improves the permit review process by making it simpler and quicker ● SMC also provides an application checklist, additional information on the ADU codes and other related documents on the website
<p>Santa Barbara</p>	<ul style="list-style-type: none"> ● Not sure what they are doing, but Santa Barbara went from one ADU building to 345 after 2017
<p>Santa Cruz County</p>	<ul style="list-style-type: none"> ● Santa Cruz’s website allows people to give feedback on their ADU program and also provides a financing guide, a cost calculator, and GIS tool allowing homeowners to determine if their property can have an ADU ● ADU prototype architecture which aid in designing and planning an ADU ● Santa Cruz County offers a Limited Immunity Amnesty Program (LIAP) that promotes inspections of unpermitted structures and offers technical assistance to get the structure permitted ● The county has a forgivable loan program that offers loans up to \$40k for those who are willing to rent the ADU to low-income households ($\leq 80\%$ of AMI) at affordable rents up to 20 years
<p>Sonoma County</p>	<ul style="list-style-type: none"> ● Sonoma County offers ADU customer service hours and a simpler ADU process with more information on their website ● There is a 50% fee reduction if the size is >750 ft², but a fee waiver below that ● The county offers a workbook that guides homeowners through the ADU process

	<ul style="list-style-type: none"> ● Homes for Sonoma works to build more affordable, permanent housing and creating a program for private homeowners to build ADUs
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California Jurisdictions	Notes
Austin, Texas	<ul style="list-style-type: none"> ● Alley Flat Initiative → offers discounted architectural services and permit fee waivers in exchange for complying with <u>affordability</u> and <u>sustainability</u> <ul style="list-style-type: none"> ○ Rent must be limited to 28% of 80% MFI for 5 years ● Looser regulations resulted in an increase in ADU permit applications from 170 to 227 from 2015-2016 <ul style="list-style-type: none"> ○ May have 2 ADUs on property ● The Austin Strategic Housing plan offers affordable units by creating 35,000 units for those at 80% AMI ● The city offers a strategic housing blueprint that includes goals for affordable housing in every city council district to ensure that there is affordable housing throughout the city
Denver, CO	<ul style="list-style-type: none"> ● Forgivable loan up to \$25,000 to aid in building an ADU... <ul style="list-style-type: none"> ○ ... with the commitment of renting the ADU to households who earn ≤80% of the AMI ● and rent must not exceed 80% of the AMI maximum rent for 25 years
Montgomery County, Maryland	<ul style="list-style-type: none"> ● The county approved <u>ZTA 19-01</u> on ADUs <ul style="list-style-type: none"> ○ ADUs can be built on lots from 6,000 ft² to 20,000 ft² ○ Homeowners can build on small lots in single family homes as long as all zoning rules (setbacks, lot coverages etc.) are followed ○ No minimum distance between accessory apartments ○ New homes can be built with an ADU already in the original building plans ● Allows for the habitable space alone to reach 50% of the main house's size w/ no fixed maximum

<p>Portland</p>	<ul style="list-style-type: none"> ● Offers fee waivers, resources on their websites, application checklist, and increased application approvals ● Revisions to the ADU regulations led to a fee waiver if the ADU will not be used a short-term rental for 10 years ● In Multnomah County, it launched a pilot that build ADUs in four private backyards for homeless families to live in, rent-free, for five years ● Enhabit is a community non-profit that works to accelerate the development of affordable ADU programs by providing resources, designs, and engagement tools
<p>Seattle</p>	<ul style="list-style-type: none"> ● Block Project builds backyard cottages to house those experiencing homelessness ● Looser regulations that allow for 2 ADUs to be built on the property

Source: Baird + Driskell Community Planning



Councilmember Ben Bartlett
City of Berkeley, District 3

CONSENT CALENDAR
December 5, 2017

To: Honorable Mayor and Members of the City Council
From: Councilmember Ben Bartlett
Subject: Refer to the City Manager's Office and Budget Referral: Second Dwelling Unit/Accessory Dwelling Unit Pilot Program to House the Homeless

RECOMMENDATION:

Refer to the City Manager's office to develop a second dwelling unit/accessory dwelling unit Pilot Project as an additional strategy to provide housing for homeless persons and families.

The pilot program should provide the following forms of technical assistance and incentives to homeowners in exchange for housing homeless families/individuals for a specified number of years:

1. Homeowners without additional units – to provide them with technical and financial assistance with the permitting and construction of new second units and ADUs
2. Homeowners with unpermitted second units – to provide them with legalization as well as financial and technical assistance in order to convert unpermitted units into permitted units

The pilot will also evaluate the following:

- Replicability/scalability
- What types of incentives will be enough to attract homeowners
- How to conduct long term monitoring
- To what extent might this approach increase housing stock

The proposed Pilot Program and budget are outlined below and will pilot the financing and construction of new second dwelling units; and the remodeling and legalization of existing unpermitted second units. The program is should be completed within 24 months of Council approval.

The Pilot Program will require a one-time program budget of \$500,000, and an additional \$50,000 for administrative costs. Funding for the program would be drawn from U1 funds.

The City should provide a maximum subsidy of \$75,000 per unit to build 2-3 new ADUs. The City should provide a maximum subsidy of \$50,000 per unit to preserve 2-3 existing unpermitted ADUs. The subsidy will be provided in the form of a soft loan or forgivable loan tied to a commitment to rent the ADU to a homeless family/individual.

Line Item	Amount
Financing Incentives for 3 new ADUs:	\$225,000
Financing Incentives for 3 Unpermitted Second Units:	\$145,000
Project Management of Unpermitted Units:	\$25,000
Administrative Costs:	\$50,000
Total:	\$445,000
Total Cost per Unit:	\$74,167

BACKGROUND:

Right now, we are in the crosshairs of a severe housing shortage and a disinvestment in affordable housing. Too many Berkeley residents – including seniors, individuals with disabilities, teachers and families with children – struggle to keep a roof over their heads. Waitlists for affordable housing number in thousands and stretch into years.

The limited amount of affordable housing that has been developed in the past few decades has mostly been small units in large apartment buildings. These units are being built at increasingly unsustainable costs. Large projects in Berkeley, Emeryville and San Francisco now cost well over \$500,000 per unit to develop. In fact, a recent affordable housing project in Emeryville cost nearly \$700,000 per unit.

An affordable grass roots alternatives to expensive apartment units are Accessory Dwelling Units (ADUs). ADUs are a source of affordable housing in single and multi-family neighborhoods. There are tens of thousands of potential sites in Berkeley.

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 in general is a homeless prevention strategy. In addition, the Pilot Program will focus on housing homeless individuals/families directly in accessory dwelling units.

The purpose of the pilot would be to empower Berkeley homeowners to play a more direct role in rehousing the homeless, streamline the permitting process, provide technical assistance to homeowners, provide incentives for preserving and constructing second dwelling units in exchange for housing homeless families/individuals, and promote the development of second dwelling units as a source of affordable housing.

FINANCIAL IMPLICATIONS:

Staff time.

CONTACT PERSON:

Councilmember Ben Bartlett, (510) 981-7130



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.

Housing Advisory Commission Referral Response: CONSENT CALENDAR
Second Dwelling Unit/Accessory Dwelling Unit Pilot Program to House the Homeless July 24, 2018

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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