



COUNCIL AGENDA: 1/14/20  
FILE: 20-064  
ITEM: 2.15

## Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Rosalynn Hughey  
Jon Cicirelli

**SUBJECT:** ACCESSORY DWELLING UNIT  
AMNESTY PROGRAM

**DATE:** January 13, 2020

Approved

*D. DSYL*

Date

*1/13/2020*

### SUPPLEMENTAL

### OUTCOME

Adopting a resolution amending the 2019-2020 Schedule of Fees and Charges (Resolution No. 72737, as amended) and a resolution amending the Schedule of Parkland Fees (Resolution 73587, as amended) will reduce the plan review, building permit, and impact fees as well as the Parkland Fees to \$0 for property owners who participate in the ADU Amnesty Program and qualify for a Financial Hardship Exemption under San Jose Municipal Code 4.76.400-470 until such time that an ordinance to formally waive the above noted fees is adopted by City Council.

### BACKGROUND

On January 7, 2020, Council approved staff's recommendation to establish an Amnesty Program for unpermitted accessory dwelling units (ADUs) as required by City Council Policy Priority #7 and included staff direction from the Mayor's memorandum dated January 7, 2020 to adopt a fee resolution that will set fees to \$0 for property owners who meet the criteria for a Financial Hardship Exemption, with an ordinance to follow formally waiving those fees. This resolution is proposed in alignment with the January 7, 2020 Council action (Item 4.1).

### ANALYSIS

On January 7, 2020, Council unanimously approved waiving permit and impact fees for property owners who meet the criteria for the Financial Hardship Exemption under San Jose Municipal Code 4.76.400-470. Pursuant to San Jose Municipal Code 1.17.010, fees must be waived by ordinance, which requires two readings. However, permit and impact fees can be reduced to zero immediately by amending the resolutions setting the 2019-2020 Schedule of Fees and Charges

and Schedule of Parkland Fees. The ADU Amnesty Program is proposed to commence on January 21, 2020. Failure to adopt the proposed resolution will delay the City's ability to reduce permit and impact fees for eligible property owners who participate in the ADU Amnesty Program. An ordinance to formally waive the fees will follow in March 2020.

### **CONCLUSION**

A fee resolution and subsequent ordinance are required to immediately reduce and formally waive permit and impact fees for property owners that participate in the ADU Amnesty Program and meet the criteria for the Financial Hardship Exemption under San Jose Municipal Code 4.76.400-470. Staff recommends adoption of the proposed fee resolution to ensure permit and impact fees can be reduced for eligible property owners at program commencement on January 21, 2020 until such time that an ordinance to formally waive the fees is adopted by Council.

### **EVALUATION AND FOLLOW-UP**

Staff will return to City Council in March 2020 with a proposed ordinance to formally waive permit and impact fees as directed by Council January 7, 2020.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office.

### **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

### **COST SUMMARY/IMPLICATIONS**

Based on the 2019-2020 Schedule of Fees and Charges staff estimates a cost of up to \$5,862 in plan review and permit fees per ADU unit. The total cost to waive permit fees would be dependent on the volume of ADU Amnesty permit applications. Staff estimates approximately 50 ADU Amnesty permit applications from program launch in January 2020 through the end of

the fiscal year and approximately 100 ADU Amnesty permit applications for Fiscal Year 2020-2021, for total permit costs of approximately \$293,000 and \$586,200, respectively. As development services is cost recovery, a funding source will need to be identified to offset the fiscal impact of reduced or waived permit fees. Staff will put forward during the 2019-2020 Mid-Year Budget Review a request for initial costs and a proposal during the 2020-2021 budget process to request ongoing resources to continue the program.

Additionally, the cost to reduce or waive Parkland fees is estimated at \$3,297 (the average ADU fee across all geographic categories in the park fee resolution) per unit which equates to \$164,850 for an estimated 50 units and \$329,700 for estimated 100 units. Total potential revenue loss for from this program is therefore estimated at \$494,550.

### **CEQA**

Not a Project, File No. PP17-005, Adjustment to Fees, Rates, and Fares without changes to or expansion of services.

/s/  
JON CICIRELLI, Director  
Parks, Recreation and Neighborhood  
Services

/s/  
ROSALYNN HUGHEY, Director  
Planning, Building and Code  
Enforcement

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