

REPORT TO PLANNING COMMISSION

SUBJECT

Potential Study Issue for 2020: Amnesty Program for Existing Unpermitted Accessory Dwelling Units

1. **What are the key elements of the issue? What precipitated it?**
2. **Evaluate Enactment of an Amnesty Program for Existing Unpermitted Accessory Dwelling Units**

It is unknown how many unpermitted or illegal Accessory Dwelling Units (ADUs) exist in Sunnyvale; however, they do exist. This study issue would consider allowing an amnesty program to allow these unpermitted ADU's to be legalized. The result will not be addition of ADUs to the City housing stock, but would help create a more refined list of approved units.

A concern with an amnesty program for structures built without Planning or Building permits is whether the City would be, in effect, accepting non-inspected and potentially unsafe structures in the City. If the amnesty program is studied, this issue would need to be considered. Also, if unpermitted ADUs do not meet the same standards as required by those residents following City law, a fairness argument could be made why those that follow the regulations do not enjoy the same privileges as those that build without permits.

This study may include:

- Working with a consultant to conduct outreach to community members to determine where illegal ADUs exist and what issues may make them impossible to legally permit under existing requirements;
- Consideration of what type of code requirements may be safe to overlook in legalizing these ADUs;
- Surveying other cities that have had amnesty programs to understand the process and success rates; and
- Determining whether the City feels it can safely offer amnesty to existing unpermitted ADU owners.

3. **Origin of issue.** Commissioner Weiss (January 28, 2019)
4. **Would this be a multiple year project?** Yes
5. **Staff comment.** Staff has deep concerns about an amnesty program. Given the program does not result in additional units added to the housing stock of the city (just that those with already unpermitted units could be counted towards the number in the city), and concern about safety,

compatibility, and fairness to others, it does not appear the value of the program outweighs the concerns.

To do the study, staff would likely need to hire a consultant to help with outreach who has a deep understanding of the safety implications that may arise with offering amnesty to ADUs that were not built via building plan checks or with inspections by the City. Staff would also need to research other amnesty programs, and speak to staff from those jurisdictions to see what was learned when conducting this type of program. Staff would have concern offering amnesty on all ADUs, there could be safety issues that may not be visible with inspections that would have been caught if the ADU had been built with proper permits. Additionally, there may be life/safety issues (lack of fire wall separation) that would make staff unlikely to allow an existing ADU to be permitted, which would result in knowledge of illegal construction that may not have been known prior to the study. This could result in the need for code corrections and new neighborhood preservation cases which may make community members weary of the process.