



Contra
Costa
County

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: April 9, 2019

Subject: Setting Transportation Impact Fees for Accessory Dwelling Units

RECOMMENDATION(S):

DISCUSS local and regional traffic impact fees relative to Accessory Dwelling Units (ADUs), and DIRECT staff to conduct an expedited, comprehensive process to develop and implement modifications to the traffic impact fee programs to encourage the development of ADUs.

FISCAL IMPACT:

This is a preliminary policy discussion and does not have any direct fiscal impact. Specific fiscal impacts will be documented at the time any policy changes are implemented. Ultimately however, the reduction and/or elimination of traffic impact fees would unavoidably create a funding gap. That gap cannot be filled using the fee program's revenue and must be backfilled with other sources.

BACKGROUND:

Introduction: At the March 26th Board of Supervisors (BOS) Meeting there was an item regarding an update to the West County regional traffic impact fee program [1], "*Fix public hearing to consider adopting Ordinance No. 2019-10 to adopt West Contra Costa Transportation Advisory Committee (WCCTAC) fees*". The resulting dialog indicated a

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY

☐ RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **04/09/2019** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: April 9, 2019

David Twa, County Administrator and Clerk of the Board of Supervisors

Contact: John Cunningham
(925) 674-7833

By: , Deputy

cc:

BOS desire for a consistent policy approach to encourage the development of Accessory Dwelling Units in response to the housing crisis.

BACKGROUND: (CONT'D)

Additional direction was that the update result in clear program documentation that is easily understandable to the general public.

The following report provides the background information requested by the Board and attempts to define a process to comprehensively develop and implement changes to traffic impact fees imposed by the County in order to encourage the development of ADUs through an ordinance(s) establishing an exemption or fee reduction. This process could include the County/local Area of Benefit (AOB) Traffic Impact Fee Programs as well as the regional fees collected in conjunction with the Regional Transportation Planning Committees.

1. Information Requested by the Board

A. Existing County Ordinance Addressing ADUs (effective as of 2017)

On September 27, 2016, Assembly Bill 2299 and Senate Bill 1069 were approved by the Governor. The bills amended Government Code section 65852.2 regulating the establishment of accessory dwelling units (ADUs, formerly designated as residential second units), effective January 1, 2017. As determined by the State legislature, ADUs are a valuable form of housing in California and an effective tool in combating the housing shortage in the state. ADUs provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others at below market prices within existing neighborhoods. State law requires local ordinances regulating ADUs to comply with Government Code section 65852.2, as amended.

In response, the Board of Supervisors adopted the County's current ADU Ordinance, which amended the County's then-existing residential second unit ordinance, found in Chapter 82-24 of the County Ordinance Code.

In accordance with Government Code section 65852.2, the ADU Ordinance provides for a ministerial process to approve ADUs without discretionary review or public hearing. An ADU in a single-family residential district that meets the ADU Ordinance's development standards and all applicable building standards is one form of ADU that is permitted ministerially. An ADU that is an internal conversion of an existing building is another form of ADU that is permitted ministerially if: the existing building is located in a single-family residential district; the internal conversion has independent exterior access; the side and rear setbacks are sufficient for fire safety; and the internal conversion meets all applicable building standards and all applicable sewage and water requirements.

The ADU Ordinance also provides that an applicant may obtain a non-ministerial ADU permit if the proposed ADU is not an internal conversion and does not meet one or more of the ordinance's development standards, including lot size, height and setback requirements, or parking requirements.

B. Accessory Dwelling Unit Permits Approved 2017-2018*

2017-2018 Accessory Dwelling Unit Permits					
	Interior Conversion	Addition or Detached (Any new footprint)	Ministerial	Administrative (variance or deviation from standard)	Total
2017	23	42	65	0	65
2018	19	46	63	2	65
	42	88	128	2	130

*The four categories are not mutually exclusive. A ministerially-approved ADU could be either interior or involve new footprint.

C. ADUs and Current Traffic Impact Fees

The local and regional fee programs administered by the County are listed below. The County implements 14 Area of Benefit (AOB) fee programs for distinct unincorporated areas and three Regional fee programs.

Local Traffic Impact Fees (AOB Fees)

- Alamo
- Bay Point
- Bethel Island
- Central County
- North Richmond
- Richmond/El Sobrante
- Discovery Bay
- Pacheco
- Hercules/Rodeo/Crockett
- West County
- Briones
- Martinez
- South Walnut Creek
- East County Regional

Regional

The Regional programs are developed and maintained in conjunction with the four Regional Transportation Planning Committees (RTPCs) and are a requirement of the Contra Costa Transportation Authority's (CCTA's) Growth Management Program (GMP). These programs are updated and maintained at the RTPC level consistent with the collaborative, multijurisdictional planning

protocol which is the practice in Contra Costa. Implementation of fee rates for ADUs currently varies across jurisdictions.

- East Contra Costa Regional Fee and Financing Authority (ECCRFFA). An initial reading of the ECCRFFA JEPA suggests that members are required to impose the fees approved by ECCRFFA and must consult with and seek approval of any alternative fee or discount.
- Tri-Valley Transportation Council (TVTC)
- West Contra Costa Transportation Advisory Committee (WCCTAC), County staff has been advised by WCCTAC staff that that the approved ordinance language envisions and specifically accommodates the County's proposed approach (passage of an ordinance modifying the program to encourage ADUs), WCCTAC Model Fee Ordinance: *Section 4-Fees*, paragraph C states, “No development shall be exempt, except if application of the fee to the development would be unlawful under and/or conflict with federal, state, or local law and/or regulations...”
- The Transportation Partnership and Cooperation (TRANSPAC) is the Regional Transportation Planning Commission (RTPC) for Central County. TRANSPAC does not administer a formal mitigation fee program.
- The Lamorinda Fee and Finance Authority’s (LFFA). The County is not a party to the LFFA program.

ADU Policies: Regional & Local Programs							
	TVTC	WCCTAC [Existing]	WCCTAC [Proposed]	TRANSPAC	ECCRFFA (TRANSPLAN)	LFFA	Local/County AOB
ADU	review ongoing[1]	No ADU Policy	Yes, see: [2]	No ADU Policy	No ADU policy	Researching	No ADU Policy
[1] Research into how various TVTC agencies address ADUs is ongoing							
[2] “...accessory dwelling units within the footprint of an existing dwelling unit’s habitable space are not required to pay the STMP Fee.”							

D. Policy Options to Encourage Accessory Dwelling Units

Staff is requesting direction from the Board regarding the extent to which ADUs traffic fees should be reduced, either through a tiered fee or complete exemption. Staff is providing the following options for the Board to consider initiate a dialog on general policy direction. Discounts across a continuum from complete exemption to reductions should be considered. Any potential change to a regional fee program administered by an RTPC must be analyzed for conformance with interagency agreements. Staff believes a policy discussion with RTPC Boards would be an important future step.

- \$0 (exempt) OR
- 0.2x multi-family rate OR
- 0.4 x multi-family rate
- Some other rate or a combination of rates depending on the square footage of the

2. Suggested Process for Developing and Implementing a County Policy to Adjust Traffic Impact Fees to Encourage ADUs: Staff proposes a three-phase process:

1. **Regional Transportation Mitigation Programs (Regional Programs):** Each RTPC updates their associated Regional Program on independent schedules. Given these independent schedules and the necessity to adhere to the multijurisdictional collaborative planning process, the Regional Program update process would involve three steps; **a)** Investigate applicable regional agreements to determine what steps to take to ensure the County does not conflict with regional obligations, **b)** Communicate to each RTPC and CCTA the County's desire to respond to the housing crisis with a program to encourage ADUs consistent with regional agreements and obligations, and **c)** Consider approval of an ordinance or ordinances modifying each fee program to establish an ADU exemption/reduction. *(WCCTAC initiated an update process in late 2017 and are nearing completion. An update to the WCCTAC program will be handled as indicated in #3 below)*
2. **Local/County Area of Benefit:** Similar to the update to the Regional fees discussed above staff believes that we can pass a blanket ordinance or package of ordinance revisions to establish an ADU exemption/reduction across all AOB areas.
3. **WCCTAC STMP:** The update to the WCCTAC fee was initiated in 2017 and is planned to be adopted by all member jurisdictions in the April/May 2019 timeframe. The new fee is planned to take effect as of July 1, 2019. Given this timing, the County update to the WCCTAC fee could take place in two steps: **a)** the BOS could consider adopting an ordinance to update the WCCTAC fee at the April 16, 2019 meeting of the BOS. That ordinance will include ADU exemption language to exempt ministerial internal conversions (i.e., "...accessory dwelling units within the footprint of an existing dwelling unit's habitable space") from payment of WCCTAC fees consistent with the model language provided by WCCTAC. **b)** If the BOS desires to develop a more expansive exemption/reduction than what is in the current WCCTAC model language then that modification could take place subsequently, perhaps as part of a broader update to the AOB fees and any other Regional Fee programs.

3. Summary Information on Relevant Current Legislation

Pending legislation related to accessory dwelling units propose a variety of new regulations and programs intended to increase the construction of ADUs. These bills are geared at creating incentives to build ADUs by creating new funding sources, restructuring impact fees, reducing parking requirements, and requiring new housing planning processes.

SB 13 – Wieckowski

This bill makes several key changes to the development of ADUs:

- Prohibit local agency from requiring the replacement of parking spaces if a garage, carport, or covered parking is demolished to construct an accessory dwelling unit.
- Prohibit a local agency from requiring occupancy of either the primary or the accessory dwelling unit
- Would prohibit an agency from imposing any impact fee if that fee in the aggregate, exceeds specified requirements depending on the size of the unit.
 - An accessory dwelling unit less than 750 square feet will be charged zero impact fees
 - An accessory dwelling unit between 750 and 1,000 square feet shall be charged 25 percent of the impact fees otherwise charged for a new single-family dwelling on the same lot.
 - An accessory dwelling unit greater than 1,000 square feet shall be charged 50 percent of the impact fees otherwise charged for a new single-family dwelling.
 - An ADU substantially contained within the existing space of a single-family residence or accessory structure shall not be required to provide fire sprinklers if they are not required for the primary residence
 - For ADUs described above (section e) a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

AB 881 – Bloom

- The bill would delete the provision authorizing a local agency to require owner-occupancy as a condition of issuing a permit.
- Would prohibit parking requirements for ADUs within a half traversable or walkable mile of public transit, and would define public transit for those purposes

AB 670 – Friedman

- Would make a provision in a common interest development's governing document void and unenforceable if it prohibits the construction of accessory dwelling units or junior accessory dwelling units, as specified.

AB 587 – Friedman and Quirk-Silva

- This bill would authorize an accessory dwelling unit that was ministerially approved pursuant to the process described above to be sold or conveyed separately from the primary residence to a qualified buyer if certain conditions are met.

AB 69 – Ting

- Would require the department of Housing and Community Development to propose small home building standards governing accessory dwelling units and homes smaller than 800 square feet.

AB 68 – Ting

- Would prohibit the imposition of lot coverage requirements, as well as the imposition of minimum or maximum ADU size limitations if a local agency does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with 4-foot side and rear yard setbacks.

AB 671 – Friedman

- This bill would require a local agency to include a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent for very low, low-, and moderate-income households in its housing element.
 - By requiring a local agency to prepare an additional plan in the housing element this bill would impose a state-mandated local program

AB 1074 – Diep - Accessory Dwelling Unit Construction Bond Act of 2020

- Would authorize the issuance of bonds in the amount of \$500,000,000 pursuant to the State General Obligation Bond Law to finance the Accessory Dwelling Unit Construction Program, established as part of the bond act

AB 1239 – Cunningham

- Requires agencies as part of their Housing Element to set forth a schedule of actions during the planning period that the local government is undertaking or intends to undertake to implement the policies and achieve the goals of the housing element, as provided

[1] Assembly Bill 1600 (1987), the "Mitigation Fee Act" authorizes the imposition of development impact fees to be charged by a local governmental agency to an applicant in

connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project. (Gov. Code § 66000(b).) The County imposes traffic mitigation fees (AOB fees) in accordance with the Mitigation Fee Act, Government Code sections 66484 and 66484.7, Division 913 of the County Ordinance Code, and other applicable laws and ordinances.

CONSEQUENCE OF NEGATIVE ACTION:

None.

CLERK'S ADDENDUM

Staff direction. 1. Consider adoption of the WCCTAC Impact Fee ordinance at the April 16 BOS meeting. 2. Draft countywide ordinance to update all local area of benefit (AOB) ordinances in order to exempt ADUs from traffic AOB fees 3. Start the process to adjust the regional traffic impact fee program to exempt ADUs and include the Contra Costa Transportation Authority in the outreach.

ATTACHMENTS

RTPC Transportation Impact Fee Schedules 2019