



MEMORANDUM

DATE: for July 15, 2021 meeting

TO: Iris Sims, Chair
Oak Park Plan Commission

FROM: Craig Failor, Village Planner

RE: **Accessory Dwelling Units;** Follow up from June 3, 2021 Plan Commission.

1. Tax Incentives
 2. Tax Impacts -Other Communities
 3. Taxes Paid in Oak Park
 4. Marketing Program
 5. Experience – Other Communities
 6. Two-Flat vs. Single Family
 7. Short Term Rentals (owner occupied)
-

1. **Tax incentives.** [*neobuildersadu.com – pub. August 30, 2020 – a California based company*]

“Tax Benefits of owning an ADU- What You Need to Know About an Accessory Dwelling Unit. Today with the housing market being at a shortfall, people are considering adding an Accessory Dwelling Unit either directly to their existing dwelling or as a standalone guest house. For some good reasons you may want to consider this and, in this article, you will be whisked along on an informational journey through the dos and don'ts and how this may be a great opportunity to add value and the tax benefits of constructing and owning an ADU. With the high costs of living and as people retire and are often on fixed incomes this may be the thing for your elderly parents to keep their independence without becoming institutionalized in a nursing home or assisted living facility. States and towns are easing up on restrictions limiting single family homeowners from adding these buildings and while conditions are where they are now, it may be the perfect time to consider making a move. This could prove to be a great opportunity to add value to your existing property while getting someone else to pay for it, reaping the rewards that ADU tax benefits may offer. WHAT DO I DO NOW? So now you need to know what the benefits are and how do you get started. The first thing to do is check with your municipality to find out if incentives and special financing programs are offered and what conditions and stipulations apply. [*There are none in Oak Park at this time*]. Next you must come to a decision based on your needs to make an informed decision to directly meet those needs. For example, cities like Los Angeles have been on the move to keep long term renters

and have been implementing rules to restrict homeowners on their use of and amount allowed to be collected for rents on their ADUs. Other municipalities may or may not be inclined to follow suit. In Portland, Oregon in 2018 a pilot program was initiated to offer reduced cost of construction if the unit was rented to low-income renters and since then others have followed suit, even providing lists of pre-approved ADUs to hasten the process for homeowners. In 2020 the Accessory Dwelling Unit may be one of the key factors in a large-scale effort to combat the increasing housing shortage. You can and should reap the rewards. INCOME and TAX ADVANTAGES According to ADU Geeks, a business that can handle the entire process from financing to finish, one of the best moves to make when considering an Accessory Dwelling Unit for income property is to put that into a limited liability company or LLC. With this you and the home you are living in on the property will be legally protected from any renter mishaps associated with the new dwelling. Now all your startup costs with this new building are tax-deductible providing you with real ADU tax benefits. You can deduct the cost of forming your LLC as well as any and all startup costs involved. Next the cost of the building can be depreciated at once so long as you have a listing to rent. It doesn't matter if you have a tenant or not you get a fat depreciation. Any of your rental income will go directly to your schedule E and your expenses so you will be getting taxed once instead of twice on that money while being blanketed in protection by your LLC. Those are some real tax benefits!"

2. Tax Impacts – Other Communities

According to the City of Evanston, yes taxes will go up when an ADU is added, but the original home on your property will not be reassessed immediately, which means the property taxes on your principal residence will stay the same until the next scheduled reassessment. An increase in square footage of living space will increase the amount of taxes paid on your property, regardless if it is attached or detached. This is common with any municipality in Cook County.

A purely hypothetical example on how taxes are calculated as found on the Cook County Tax Assessor's website; each +1 square foot for a building might add \$50 in value, each +1 year in age might subtract \$500 in value, and having a porch might add \$5000 in value. Doing this is possible only when Cook County has a sufficiently large data set with thousands of homes so that the code can, for example, look at sale values for homes with smaller square footage versus larger square footage to see what the pattern between square footage and sale value is. Cook County Assessor's Office indicates that you can receive a *Home Improvement Exemption* on your taxes if you increase the value of your home up to \$75,000 worth of improvements. This will not increase your property taxes for at least four years.

3. Taxes Paid in Oak Park

This is not any different from the impacts identified in other communities. Additional square footage should equal additional taxation. The property example referenced at the June meeting is identified on the Village's website with two addresses. One of which is the coach house. However, the Cook County Assessor and Cook County tax portal has not identified an increase in square footage for this property, nor does it show a separate tax valuation for the coach house. This could be because at the time of permit submittal it was designed as an office use and not designed as a dwelling unit. Therefore, the permit information the Assessor received from the Village was for a non-residential use.

4. Marketing Program

Evanston has an informational brochure available to the public which details the reasons for, benefits of, and costs associated with constructing an accessory dwelling unit. Even with this brochure available, they have not seen a significant surge in ADUs. It would be beneficial to have such a marketing tool available in Oak Park for the public to reference in order to better understand the ramifications and benefits of such an endeavor.

Cities like Portland, OR are seeing the most success by helping to create some excitement around and greater familiarity with ADUs, for instance by sponsoring tours and providing technical assistance to builders and homeowners.

California's Governor signed Senate Bill 1069/Assembly Bill 2299 into law, reducing barriers to ADU development such as parking and sprinkler requirements, eliminating utility fees, and streamlining approvals. Cities and counties that take steps to educate homeowners and work with entities to develop new financing programs are likely to increase ADU development.

5. Experience – Other Communities

According to the Freddie Mac estimates in 2020; "The rapidly expanding states of California, Florida, Texas, and Georgia account for half of the 1.4 million ADUs identified. While the number and share of ADU listings increased across the United States, the growth was higher in the South and West – the fastest growing regions of the country. Shares of active rental listings for ADUs in Sun Belt states increased from 3% in 2010 to almost 5% in 2019, while shares in Northern states just inched up from 2.2% to 2.4% during the same time. Similarly, the share of for-sale listings with ADUs increased from 4.3% to 9.2% over the last decade in the South, while in the North the growth was more subdued – from 2.7% to 4.1%.

The study identified Portland, Dallas, Seattle, Los Angeles, and Miami as the fastest growing ADU markets, each with double-digit growth of first-time ADU listings since 2015. Detached ADUs are more prevalent in sprawling Western metro areas, while homeowners in denser East Coast cities are more likely to create attached ADUs through conversion of attics, basements or garages.

While the Freddie Mac estimates cannot provide a definitive and complete count of all ADU properties in the United States, they certainly deliver a good quantitative measure of growth in the ADU market that is consistent with the rising number of young adults living with their parents, relatives and sharing housing with roommates."

NOTE: Since this article was published in 2020, the City of Chicago has passed their ADU regulations which significantly adds to the numbers of ADUs overall, in particular the mid-west region.

Some Illinois communities were mentioned at the June meeting; however, the following is a complete listing of where ADUs are permitted and where they are being considered per CMAP (Chicago Metropolitan Agency for Planning).

Permitted: Antioch, Bull Valley, Chicago, Evanston, Oak Park, Park Forest, South Elgin and Wilmette.

Consideration: Lake Bluff, Naperville, Northbrook, River Forest, and Woodstock.

Wilmette Community Development Director reported that they have had two requests since they amended their code in 2001. Only one of those was actually constructed. Wilmette has a very restrictive ordinance that requires a special use permit, has occupant restrictions (55 years old minimum or disabled), unit size and number restrictions, no detached units allowed, owner-occupied and requires an annual affidavit stating compliance with zoning regulations.

South Elgin Community Development Director reported that they haven't had one ADU proposed since they adopted their regulations until recently. Lennar Homes is currently going through the entitlement process for a new 103 lot single-family development, and two models (1 two-story, 1 ranch) will have the option to have ADU's built into the principal structure. In their marketing, Lennar refers to the units as "Next Gen Living." The project got a great reception at their Planning and Zoning Commission level, in part because of the developer bringing this unique concept to the South Elgin market. Lennar builds nationally and has built this product in other states. The Director thinks it is the first of its kind in Kane County, and they predict they will sell well, even if the market slows. Their Village Board approved the development as proposed at their meeting this week.

Antioch Community Development Director reported that while they permit ADU's in their Form Based Code for the Downtown by right, they still only have several coach houses. Their staff continues to promote them, and have several homeowners that are planning "granny flats" in their new homes, still not a lot of actual new construction of ADU's yet. They have had no issues with coach houses as it relates to code enforcement or any parking issues. The Director continues to be optimistic on the future of ADU's as they get a call once a month from property owners who would like to build one or add an "in-law apartment" to their property.

Park Forest *As of this writing, no response was received.*

Bull Valley *As of this writing, no response was received.*

Northbrook has preliminary direction to proceed with a public hearing before their plan commission on July 20th. Initial responses by their Board are generally favorable for ADUs (not all are supportive), but they have asked the Plan Commission to consider how they will be regulated (special use vs. permitted), what type is appropriate (attached vs. detached) and where they are allowed will become topics of debate. Some Board members indicated they prefer the Wilmette model, which is very restrictive.

River Forest has begun discussions at their Zoning Board of Appeals level.

Woodstock's Age Friendly Action Plan survey respondents (about 1/3) indicated a desire for the construction of an accessory dwelling unit or in-law suite. The City has not pursued any regulatory changes yet.

6. Two-Flat vs. Single Family

There is a mix of communities that either allow or restrict ADU's on Two-Family properties. It really becomes a preference for the community. For tax purposes, the tax code is inclusive of two units through six units, so if a two flat added an ADU, it would not change the tax code for that property. Also, an ADU is considered an accessory use which is incidental to the principle use, so it would not be considered a principle dwelling in either a single family or two-family district. Taxes should increase due to the increase in living space square footage. This should be the case for any residential property that add an ADU.

From a Zoning standpoint, an accessory structure or use of any kind is ancillary and incidental to the principle structure. In an R-5 Two-Family District, a principle building can only cover 50% of the property, and an aggregate of coverage (including accessory buildings i.e. garages, parking area, ADUs, etc.) can be no more than 70% of the property. If the thought is to maintain the required open space for single family properties, the same could or should be true for two-family properties. This could potentially allow an ADU to be added while maintaining the property's existing residential character.

7. Short Term Rentals (owner occupied)

This tends to be a preference for each community. Most local communities referenced above do not allow short-term rentals for ADUs. Oak Park allows Airbnb rentals in general, as long as they are registered accordingly. With smaller dwelling units such as an ADU, it is not likely that large gatherings will occur, especially if the principal house is owner-occupied. However, due to the high cost of constructing an ADU, if the property owner offered Airbnb rentals they could potentially pay off their debt quicker. If parking is not provided for an ADU, whether it is used as an Airbnb or renter (currently Oak Park has no parking requirement for a coach house), it would mean that the short-term renter would have to park on the street and an overnight or guest parking pass would be required. There is a limit on the number of on-street parking passes – per car, so this would not be a good solution for a long-term renter, but is possible for a short-term renter.