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Salem City Council
Salem City Hall
93 Washington Street
Salem, MA 01970

Re: Strategies to incentivize accessory units.

Dear City Councillors,

I am looking forward to discussing the accessory living area ordinance with the Ordinance, License and Legal Affairs (OLLA) subcommittee. In preparation for the OLLA meeting, I have prepared this letter to provide you with a summary of strategies researched to date that the City of Salem could embark upon to address three concerns that have been expressed regarding the accessory living area ordinance. The three concerns are: 1. a special permit is not required for all units, 2. the units are not required to be affordable, and 3. it is expensive to build an accessory unit.

Concern 1: Special Permit

Staff concurs that a special permit process is a good option when neighborhood concerns need to be mitigated. However, a special permit creates a barrier to building units. It is a costly endeavor and the discretionary nature of the special permit is seen as risky for homeowners. Therefore, if there are no neighborhood concerns, it would be beneficial to have an as-of-right permitting path.

In order to address neighborhood concerns while providing an as-of-right permitting path, criteria are included in the ordinance to determine whether a special permit is required. In fact, the key concerns that have come up regarding accessory units (parking, green space, and size of the unit) are the basis for the criteria. For example, off-street parking must be provided for the accessory unit to be processed by right. If the criteria are not met, an as-of-right permit cannot be granted.

Since the key concerns have been addressed in the ordinance, a special permit is not necessary for mitigation purposes. In order to provide neighborhood notification about accessory units, language could be added to the ordinance that requires a list of permitted accessory units to be published on a regular basis. For example:

> *"Biannually the building inspector shall publish a list of accessory units permitted on the City website."*

Concern 2: Affordability Requirement

As previously discussed, staff does not recommend including a provision in the ordinance that would require the accessory units to be deed restricted as affordable. First, a requirement is not necessary because accessory units most often are naturally occurring affordable units by their nature of being small and having fewer amenities than a typical multifamily apartment building.

Second, a deed restriction is a complicated and costly process that requires the following:

1. A regulatory agreement between the property owner, DHCD, and the City;
2. An Affirmative Fair Housing and Marketing Plan that is approved by DHCD which would include some sort of lottery or tenant selection process to screen tenants for eligibility per HUD guidelines. Please note that HUD guidelines would not allow family members or employees of the homeowner to rent the unit; and
3. Annual recertification reports to DHCD and the City showing that the tenant is still eligible.

This process creates a significant burden to the homeowner, and it is unlikely a homeowner would choose to place a deed restriction on their property.

Concern 3: Cost to Build Accessory Units

Although accessory units are typically small and do not have significant amenities, they can be expensive to build. The cost ranges from approximately \$ 50-150 a square foot, or \$40,000 to \$120,000 for an 800 square foot unit.

In order to facilitate the creation of accessory units, City programs could be developed to reduce the cost of producing them. In addition, accessory units created with City participation, could also include an affordability requirement. Thus, new City programs could address both the affordability requirement concern and the cost to build concern. Below is a discussion of three proposed tools: tax incentives, a loan program, and a design template. Examples of these tools from other communities are provided.

New Tools to Address Concerns

1. Tax Incentives

Tax incentives can be created to eliminate the property tax on the portion of a property that is used for affordable housing. Such a tax incentive requires an act of the legislature. Nevertheless, it is feasible. As shown in Table 1 below, Provincetown and Lincoln have both been successful in enacting a home rule petition that allows tax incentives for affordable accessory apartments.

Provincetown does not require a deed restriction. Instead the town offers a tax incentive through the assessor's office on an annual basis. No property tax is charged for the portion of the property that is used for affordable housing purposes under the program. Per the program requirements, the homeowner must provide a copy of the tenant's income verification to demonstrate the tenant does not exceed 80% of the area median income (AMI). The homeowner must also provide and a copy of the lease stating occupants, rent amount, and utility payment responsibility.

In contrast, in Lincoln a deed restriction is required when their tax incentive program is used. As previously discussed, a deed restriction is a very complicated process. It appears that the Town of Lincoln has put together a program in attempt to ease the process by handling the marketing and monitoring for the owner (that requires staff to administer). Also, the deed restriction is loose in that it expires upon sale of the property and the homeowner has the opportunity to opt out of the deed restriction before the end of the term by repaying a portion of the loan back. Still, there are strict restrictions on the unit. For example, family members or employees of the homeowner would not be allowed to rent a unit with a deed restriction.

TABLE 1 TAX INCENTIVES			
Municipality	**Date Established**	**Program**	**Affordability**
Provincetown	July, 2003	No property tax is charged for a portion of a property that is used for affordable housing.	80% AMI Annual Basis
Lincoln	March, 2017	No property tax is charged for the portion of the units that is deed restricted as affordable. affordable unit. Nor family members or employees of homeowner allowed to live in unit.	Minimum 15-year regulatory agreement, terminates upon sale of property or voluntarily by owner.

2. Loan Program

Another strategy is to develop a loan program to facilitate the creation of accessory units. Salem is experienced in managing loan programs. For example, the City has a loan program funded by Community Development Block Grant (CDBG) funds that provides technical and financial assistance to help low-moderate homeowners and landlords make needed improvements to their properties. In fiscal year 2019, $193,677 was spent to improve seven units. CDBG could be a funding source for an accessory living area loan program; however, federal funds require that prevailing wages be paid for construction which would increase the development cost.

There are grant funds that staff could apply for to help create a loan pool of funding. The City could also contribute funds into the loan fund, either through the Community Preservation Act funding or other sources. If City funding is provided, then it would be reasonable to require the accessory apartment be rented below fair market rent until such time that the loan is paid off. This requirement could be done through methods other than a deed restriction, such as the annual certification process Provincetown utilizes.

As you can see in Table 2 below, there are several municipalities that offer loan funding for accessory units. The model for each loan program varies across municipalities. Most provide interest free loans in return for some type of affordability requirement. Lincoln, MA; Denver, CO; and San Jose, CA require a deed restriction that limits the tenant based on their AMI, in return for the loan. As previously discussed, a deed restriction is a complicated process that could discourage homeowners from pursuing it.

Boston does not require an affordability restriction on the unit, instead the loan program is limited to households that do not exceed 135% of the AMI, and it is limited to certain locations, i.e., East Boston, Jamaica Plain and Mattapan. Los Angeles requires that the homeowner rent the unit to a household with a Section 8 voucher for a minimum of five years.

TABLE 2 LOAN PROGRAMS			
Municipality	**Program**	**Affordability**	**Funding Source**
Boston	The loan is zero-percent interest (0%), deferred payment loan of up to $30,000 for home renovations to create an ADU. The loan has no monthly payments. It also does not come due for repayment until the owner sells or transfers ownership, or undertakes a cash-out refinance of the home.	A loan for homeowners whose annual household income does not exceed 135% AMI. No affordability restriction on the ADU.	$650,000 allocation in the budget
Lincoln	An interest free 10 yr. $25,000 loan is available. The loan is forgiven after the unit has been on the subsidized housing inventor for 10 years. If the homeowner should elect to opt out of the program prior to 10 years, the homeowner may keep $2,500 per year for each year the unit remains on the Subsidized Housing Inventory. The balance of the loan is due upon withdrawal from the Affordable Accessory Apartment Program.	Minimum 15-year regulatory agreement, terminates upon sale of property or voluntarily by owner.	Affordable Housing Trust Fund
Denver	Forgivable loans of up to $25,000 available to moderate-income homeowners who build ADUs in West Denver.	80% AMI for 25 years	City funded
San Jose, CA	Offered 200 $20,000 loans forgivable after 6 year.	5-year deed restriction	City Partnership with the Housing Trust Silicon Valley
New Bedford, Raynham, Taunton, Mattapoisett, Wareham, Falmouth, Mashpee, Hyannis, Orleans and a lending office in Plymouth, MA	Loan program that offers many financing options for different ADU scenarios, including purchasing a new home or refinancing an existing home and building an ADU, constructing and financing a new home with an ADU, using existing home equity to build an ADU.	None, this is a private loan rather than a municipal program. However, the municipalities promote the program.	First Citizens' Federal Credit Union

TABLE 2 LOAN PROGRAMS			
Los Angeles	Qualified homeowners are able to fund the cost to construct an ADU by refinancing their existing mortgage and taking out a low interest loan to pay for the ADU construction cost.	Section 8 Renter for 5 years	Non-profit, private partnership

3. *Design Template*

Lastly, another strategy to support unit creation is to develop a design book of templates and suggestions on how to incorporate an accessory apartment into the various housing designs found in Salem. For example, Santa Cruz, California developed a design a booklet that can be found here. Their design booklet provides an overview of the process to create an accessory unit, links to financing opportunities, strategies to lower the construction costs, and design templates with dimensional standards and sample floor plans.

Thank you in advance for considering the proposed language for the ordinance to incorporate notification as well as these supplemental programs. Please be advised that the supplemental programs described are not an exclusive list. Staff will continue to seek opportunities that could assist homeowners in creating affordable accessory units, but the first critical step is adopting the amended ordinance.

If you have any questions or concerns regarding the ordinance or the aforementioned strategies, do not hesitate to contact me at 978-619-5691 or at achiancola@salem.com.

Sincerely,

Amanda Chiancola, AICP
Senior Planner

CC: Affordable Housing Trust Fund Board