



27 May 2014

TO: Board of Public Works

FROM: Susan Thering, Ph.D., Executive Director, Design Coalition Institute
on behalf of Catherine Slichter and Nicholas Aluto, owners, 425 Woodward Drive, Madison

RE: Appeal of \$3,854 Park Impact Fees imposed on an Accessory Dwelling Unit

BACKGROUND: The owner-occupants of 425 Woodward Drive agreed to work with Design Coalition Institute to submit this appeal as a test case on behalf of moderate-to-low-income homeowners who hope to build an Accessory Dwelling Unit to safely accommodate aging parents or adult dependent children, or the homeowners themselves as they age.

425 Woodward Drive has been in the Slichter family for six generations (since 1890). The current owners are planning to build an ADU for their oldest son who is autistic.

Design Coalition Institute is a 501(c)(3) non-profit organization dedicated to "Sustainable Futures, Affordable Housing, and Environmental Justice" (www.DesignCoalitionInstitute.org). We assisted the city in preparing the regulations for ADUs, which were included in the 2013 update to the zoning code. We then initiated a city-wide public information and technical assistance program to assist moderate to low-income homeowners who want to build an Accessory Dwelling Unit.

The City Attorney's Office (CAO), on behalf of the Parks Division, offers three arguments in defense of this impact fee:

1. The CAO argues that State Statute 66.0617 permits impact fees on the construction of ADUs because an ADU/granny flat built by the owner-occupant of a single-family home is a "development" and the owner-occupant is a "developer."
2. The CAO argues that ADUs are considered 'dwelling units' under the City of Madison's zoning code and building code and thus are subject to impact fees.
3. The CAO argues that an attached ADU is equivalent to a duplex and a detached ADU is equivalent to a single-family house, thus both are subject to the impact fee category "Single-family/duplex."

We are prepared to address each of these arguments during the public hearing, if needed. However, the materials below address what we believe is the most salient issue: The impact fees are not in compliance with state statutes, which require evidence that fees are proportionate to impact.

State and City documents are referenced to support the attached appeal. URLs are inserted for documents that are available online. Copies of documents that are not available online are attached.

Thank you for your consideration

**Appeal to the Board of Public Works: RE Park Impact Fees on Accessory Dwelling Units:
The Salient Issue: These impact fees are not in compliance with state statutes, which
require evidence that fees are proportionate to impact.**

As required by State Statute, the City of Madison park impact fees are based on a “facilities needs assessment” [§ 66.0167(4)]. The current City of Madison facilities needs assessment, *2012-2017 Park and Open Space Plan*,¹ includes calculations that demonstrate how the park impact fees have a “rational relationship to the need,” and how the fees do “not exceed the proportionate share” of the cost, relative to the impact, as required by State Statute § 66.0167(6)(a) and (b).

To assure compliance with these state statutes, the Parks Division calculated their facilities needs by identifying the types of dwelling units being built in the city and the average number of people living in each type. Different park impact fees are imposed on different types of dwelling units, based on a gradient from high-impact to low-impact. The higher the number of people per dwelling unit, the higher the impact, and the greater the impact fee (*2012-2017 Park and Open Space Plan*, page 66). The report was made available to the public and was subject to a public hearing before it was accepted by Common Council May 15, 2012 (Legislative File ID No.: 25928).

There are currently three levels of impact fees based on the calculations in that report: 1. Single-family/Duplex, 2. Multifamily,” and 3. Rooming houses [(§ 20.08(2)]. In compliance with the state mandate for proportionality, the “Single-family/Duplex” has the highest park fees.

When the needs assessment was conducted (2007), Accessory Dwelling Units (also known as “granny flats” or “mother-in-law apartments”) were not allowed in the City of Madison. Consequently they are not mentioned in the needs assessment or the impact fee ordinance, and there is no data about the number of persons per ADU. However, by code, an ADU cannot be larger than 700 square feet (for comparison, about the same size as a one-bedroom apartment).

Based on size limits, extrapolation from the calculations in the needs assessment suggests that ADUs have less impact on the park system than a single-family, duplex, or a multifamily dwelling unit. However, the park impact fees that are the subject of this appeal are based on the highest, “Single-family/Duplex” category in the fee schedule (\$3,854 – see Staff Report attached).

¹ <http://www.cityofmadison.com/parks/about/documents/2012-2017AdoptedPOSPSmallFileSize.pdf>

The current park impact fees imposed on ADUs are not based on number of persons per dwelling unit, or any calculation of impact reported in the facilities needs assessment, as mandated by state statute. Instead, the Assistant City Attorney defends imposing the highest bracket of impact fees on ADUs based on generalized definitions and descriptions of “dwelling units” found in the building and zoning codes (see Assistant City Attorney memo dated 30 April 2014).

The results, besides stretching the definitions of “single-family” and “duplex” dwelling units well past the breaking point and, if applied consistently, creating havoc for the zoning ordinance, impose a grossly disproportionate fee on ADUs. Referring to the calculations and recommendations in the needs assessment, it is evident that the disproportionality of these fees flagrantly contravenes the state statute. Thus the core issue of this appeal: the impact fees are not in compliance with state statutes, which require evidence that fees are proportionate to impact.

We agree that an Accessory Dwelling Unit is a type of “dwelling unit.” However, the term “dwelling unit” is a generalization. As is evident in the needs assessment, impact fees are not imposed uniformly based on that generalization. Rather, impact fees are imposed on specific types of dwelling units because different types of dwelling units have different impacts on the park system. That is the intent of the state statute and the city ordinance.

The Assistant City Attorney explained why the fees for multifamily and rooming houses cannot be applied to ADUs (see memo dated 30 April 2014). Our argument above explains why the fees for single-family/duplex dwelling units cannot be applied to ADUs. Thus, we argue that, if ADUs are subject to park impact fees, the impact fee ordinance must be amended to include a category that complies with the state statute mandate for proportionality.

We are not asking that the fees be “waived” per se. Rather, we are arguing that the ordinance as it is currently written does not apply to Accessory Dwelling Units and the fee should be removed.

Thank you for your consideration.

From: Viste, Doran
Sent: Friday, May 9, 2014 11:14 AM
Cc: May, Michael
Subject: Impact Fees and Accessory Dwelling Units

Alders and Staff,

Many of you may have already been contacted, or likely will be contacted, about a pending impact fee appeal regarding the applicability of the City's park related impact fees to the creation of accessory dwelling units (ADUs). Pursuant to MGO Sec. 20.12, this appeal will be heard by the Board of Public Works in June. The information presented to alders and staff comes from the Design Coalition Institute (the agent for the appellant property owner). Setting aside the propriety of contacting alders on a case that is under appeal to the Board of Public Works, I wanted to take this opportunity to inform everyone about the legal issues involved here.

First of all, attached you will find a memo I prepared regarding this issue. It is our opinion that, under our existing ordinances, impact fees do apply to the creation of ADUs. That question will be before the Board of Public Works, so I will not comment any further on the pending appeal or the arguments raised by the Design Coalition Institute, except to say that we stand by our legal opinion.

Turning to the recent lobbying efforts of the Design Coalition Institute, they appear to be advocating to have either reduced fees or a waiver of fees for the creation of ADUs. However, it is important that everyone understands that, by law, impact fees must be imposed uniformly—there is no discretion to waive them for a preferred type of development, or even to modify them. Rather, the fees are set by ordinance following a statutorily mandated process that involves the preparation of a "public facility needs assessment" that explains, in detail, the rationale for imposing the impact fees and sets the specific amount of the fees. When staff determine the amount of impact fees due for a development, they simply look at the application, determine the net developable area of the development or how many and the type of dwelling units that will be created by the development, apply any credits that may be due (i.e. for land actually dedicated to the City or park improvements made), and calculate the impact fee based upon the rates as set forth in the ordinance. This process does not allow for reduced fees or the waiver of fees that would otherwise be due.

To address the ADU issue, there has been some suggestion that the City should simply amend the impact fee ordinance. However, it is important to note that under Wis. Stat. Sec. 66.0617(4)(a) and MGO Sec. 20.15(3), any amendment to an existing impact fee ordinance, either altering the fee itself or modifying how it is applied, requires a new public facility needs assessment. This study would require significant investment of Parks Division (and likely Finance Department, City Attorney's Office and Office of Real Estate Services) staff resources and take some time to create. Moreover, even if such a document is prepared, as ADUs do in fact create a new dwelling unit suitable for use by a single family, it is likely that the needs assessment would still find some demand on the parks system by these units that should be recovered by impact fees. It is my understanding that the Parks Division will be looking at their impact fees and updating their needs assessments in the near future, but there are no current plans to start assembling such a report. As a result, unlike many other issues, the application of impact fees to ADUs cannot be easily addressed with the amendment of the ordinances.

Another solution that has been proposed is to merely reduce or waive the impact fees on ADUs to reduce their cost and encourage their development—possibly just on a trial basis. However, if the City were to modify or waive impact fees for a development that is otherwise required to pay impact fees under MGO Chapter 20, the City could undermine not only our parks related impact fees but our entire impact fee system as such an action would leave the City open to a challenge that our impact fees are not being applied consistent with state law. Also, it is important to point out that once we make an exception and waive impact fees for one type of preferred development that is otherwise subject to the

ordinance, who is to say that we wouldn't be asked to waive, or at least bargain down, another impact fee to help spur a different type development? Indeed, I think we would certainly be faced with developers asking for reductions in fees claiming that they can't make their project work with the existing fees (even if such claims were fictitious). This is a slippery slope that would have huge ramifications for how our City finances improvements to serve new development—the end result being more of a burden being shifted to existing property tax payers to pay for the public improvements needed to serve new development, and potentially the end of our use of some or all of our impact fees altogether. That is not a result that the City should risk—even if the amount of money involved with ADUs is relatively small from the City's perspective. Hence, until the ordinance changes, staff and alders should be clear that impact fees, if applicable, must be applied uniformly according to the structure set forth in the enacting ordinance and that they cannot be modified or waived.

Staff and some alders have already been discussing other ways to address this issue, such as using grants or loans to assist with the costs to construct such units, with Alder Rummel and Katherine Cornwell particularly interested in the issue. I would suggest that if you are interested in pursuing other options to assist single-family home owners in adding accessory dwelling units to their properties, that you contact one of them.

In summary, it is the City Attorney's opinion that impact fees apply to the creation of ADUs and we cannot waive or modify impact fees that are imposed under MGO Chapter 20 as suggested by the Design Coalition Institute. We may be able to exempt or create a different rate for ADUs by reenacting our parks related impact fees, but that would necessitate the preparation of a new parks related public facility needs assessment—which the Parks Division is not currently planning on commencing.

Please let me know of any other questions that you may have.

Finally, we will not have any further public discussion on this topic until the pending appeal is heard by the Board of Public Works.

Doran Viste
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210 Martin Luther King, Jr. Blvd., Room 401
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Robert F. Phillips, P.E., City Engineer

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Gregory T. Fries, P.E.
Christopher J. Petykowski, P.E.
Facilities & Sustainability
Jeanne E. Hoffman, Manager
Operations Manager
Kathleen M. Cryan
Mapping Section Manager
Eric T. Pederson, P.S.
Financial Manager
Steven B. Danner-Rivers
Hydrogeologist
Brynn Bemis

May 15, 2014

Design Coalition, Inc.
ATTN: Susan Thering
2088 Atwood Avenue
Madison, WI 53704

RE: Park Impact Fee Appeal 425 Woodward Drive

Dear Ms. Thering:

The Board of Public Works will hold a hearing on the Park Impact Fee Appeal for the above project.

DATE OF APPEAL HEARING: Wednesday, June 4, 2014
TIME: 5:30 p.m.
LOCATION: 210 Martin Luther King Jr. Blvd,
City-County Building, Rm. 108, Parks Conference Room

ANTICIPATED DATE BPW WILL ADOPT DECISION: June 18, 2014

At the Appeal Hearing, the Board will consider the information submitted as part of your appeal, as well as the information submitted by the City. If you would like the Board to consider any other information, please submit that to me no later than May 27, 2014. This deadline is necessary in order for this information to be forwarded to Board members as part of the meeting packet. At the hearing, you will have the first opportunity to argue your case. The City will then have the opportunity to argue the City's case. Board members may question either side at any time during the hearing. Following arguments by both sides, the Board will discuss the appeal and make an oral decision on your appeal, either denying, approving, or approving in part the appeal. This oral decision will be put into writing and subsequently adopted by the Board at the next meeting. No additional argument will be heard regarding the appeal at that meeting, and you do not need to appear. If the Board denies, or denies in part, your appeal, you will have thirty (30) days from this meeting to commence an action by certiorari in the Dane County Circuit Court seeking review of the Board's decision.

Let me know if you have any schedule concerns.

Sincerely,

Robert F. Phillips, P.E.
City Engineer

cc: David Schmiedicke, Finance
Doran Viste, City Attorneys Office
Anne Zellhoefer, City Attorneys Office
Kevin Briski, Parks
Kay Rutledge, Parks

Attachments:
Letter Finance Director to BPW
Letter Park Superintendent to Finance
Memo Attorney Viste to Parks Director

Hacker, Marsha

From: Christi Weber [christi@designcoalition.org]
Sent: Wednesday, April 02, 2014 1:20 PM
To: Phillips, Rob
Cc: Weier, Anita; Hacker, Marsha; Rummel, Marsha; Cathy Slichter; Sue Thering
Subject: Appeal to Park Fees for ADU unit at 425 Woodward Drive
Attachments: Appeal of Park Impact Fees.pdf; ATT00001.htm; 425 Woodward Drive_Dispo Letter.pdf; ATT00002.htm; Letter of Authorization.pdf; ATT00003.htm

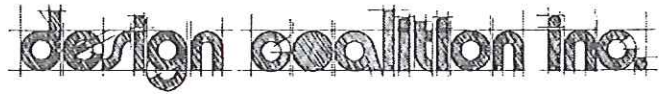
Dear Mr. Phillips,

On behalf of my clients, Catherine Slichter and Nicholas Aiuto, I have attached a letter of appeal regarding park fees associated with the ADU unit to be located at 425 Woodward Drive. Also attached is a copy of the Conditional Use staff report for your reference and a letter from my client authorizing me to submit this on her behalf. I will deliver a hard copy of these documents to your office by closing today.

Thank you,
Christi Weber

Christi Weber, M.Arch, LEED AP, Certified Passive House Consultant
christi@designcoalition.org
Cell: 608.575.8130

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2088 Atwood Ave.
Madison, WI 53704
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F. 608.246.8670
www.designcoalition.org



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3 April 2014

Robert Phillips
City County Building 115
2010 Martin Luther King Jr. Blvd
Madison WI 53703

Dear Mr. Phillips,

As required by City of Madison ordinance 20.12 "Appeals" and on behalf of my clients, Catherine Slichter & Nicholas Aiuto, I submit this formal appeal regarding the park impact fees imposed on the "Accessory Dwelling Unit" (ADU) to be constructed on my client's property located at 425 Woodward Drive, Madison WI.

Item #14 on the attached Planning Division Staff Report, which indicates preliminary approval for construction, is from the Parks Division. It reads:

"The applicant shall pay approximately \$3,858.27 for park dedication and development fees for the new SF/duplex unit. The applicant must select a method for payment of park fees before signoff on the conditional use."

It is my understanding that "new SF/duplex unit" means a new single-family house or a new duplex. As my client is not proposing to build a new single-family house or a new duplex, I submit the following:

LEGAL & FACTUAL BASIS FOR THIS APPEAL:

1. Definition of Accessory Dwelling Unit: An ADU is neither a Single-Family Home nor a Duplex by any common idea or by any legal definition in the City of Madison ordinances (see Section 28.211 for definition of "two-family" and Sec. 16.23(8)(f)4 for definition of "multifamily"). Accessory Dwelling Units fall under the category of "Accessory Buildings and Structures" regulated by the City of Madison Zoning Code (Chapter 28.131). The regulations for ADUs are similar to those for garages and tool sheds. However there are several additional restrictions that do not apply to other accessory buildings or to single-family or multi-family units, including the fact that an Accessory Dwelling Unit is only allowed on owner occupied single-family properties [Section 28.151]. As the zoning code specifically prohibits more than one single-family unit on single-family properties, an ADU can not be considered a single-family unit [28.137, Table 28.C1, and Sec. 28.033].

2. Categorization of ADUs as SF/Duplex: The park impact fee ordinance was enacted before ADUs were allowed in the City of Madison. The ordinance recognizes only two categories of

housing for the purposes of assessing park impact fees: "SF/duplex" and "multi-family" units. The decision to include ADUs in the "single family/duplex" category was made by city staff without legislative process or Council approval. "Had ADUs been in existence in 2006 when the parkland impact fee was created, perhaps the Council would have allowed a reduced impact fee on the creation of ADUs, as differential fees are allowed under statute." [Per phone and email communications between Doran Viste, Assistant City Attorney, and Susan Thering, Executive Director, Design Coalition Institute (cc)]

3. Definition of Subdivision: Chapter 20 of the City of Madison ordinance addresses impact fees. The sections of this chapter that address park impact fees are 20.08(2) and 20.08(6). Both of these sections rely solely on references to Chapter 16.23, which is devoted to "Land Subdivision Regulations." Further, the section of Chapter 20 that describes penalties for non-payment of park impact fees relies on provisions in Chapter 16.23. There are no other chapters or sections referenced in regard to park impact fees. A homeowner/occupant building an ADU is not subdividing land by any common idea or by any legal definition of subdivision in the City of Madison ordinances. A homeowner building an ADU on their property for an aging parent or an adult dependent child is not the same as a for-profit developer subdividing land and building houses to sell. Common sense alone suggests that this is a false equivalent and imposing the same fee is an unfair burden on the homeowner/occupant.

4. False Equivalent of Impact on Parks:

The intention of park impact fees is to cover the cost of purchasing and maintaining parkland in increments deemed equivalent to the increase in park use by each additional unit of housing built in the City of Madison. I fully understand and support the intentions of this ordinance. However, comparing the impact of an ADU, which by law can be no bigger than 700 square feet, with the impact of a new single-family house or a duplex is quantifiably wrong: At 700 square feet, a typical ADU will have one bedroom. A typical new single-family house will have a minimum of three bedrooms, and a typical duplex up to twice that. Again, common sense suggests that this is a false equivalent and an unfair burden on the homeowner/occupant.

5. Council's Intentions:

The City Council's intentions regarding approval of new allowances for ADUs in the zoning code includes opening up new opportunities for affordable housing and housing for elderly and dependent family members:

"Statement of Purpose (Draft 4/20/09)

*The ADU Overlay District is created to enable the establishment of accessory dwelling units within all residential districts. Accessory dwelling units give neighborhoods the opportunity to provide **affordable housing opportunities**, to provide housing opportunities for elderly or other family members, and to utilize their land base more efficiently."*

https://www.cityofmadison.com/neighborhoods/zoningrewrite/documents/ADU_OverlayDistricts.pdf

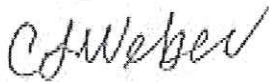
We have seen an overwhelming amount of interest in Accessory Dwelling Units by homeowners with modest incomes who wish to accommodate aging parents or adult dependent children. Others are interested in adding an ADU to provide themselves with an option for aging in place when they are no longer able to negotiate the stairs and narrow doorways in their own conventionally built homes.

In that regard, a homeowner planning for a modest ADU may not be able to afford the monthly mortgage payment once the additional cost of the park fees are included. For example, a park fee of \$3,858 for a modest ADU could add up to 9-10% to the construction budget/total mortgage. For the average Madison homeowner, this can render the project unaffordable and deny their ability to accommodate an aging parent or adult dependent child. This is especially true if the additional monthly costs are significantly more than the savings realized by keeping aging parents or adult dependent children at home, which was among the original intentions of creating the ADU Overlay District.

RELIEF SOUGHT

Based on the legal and factual basis detailed above, I request that the Park Development Fee be waived in full.

Thank you,



Christi Weber, Design Coalition, Inc.
Acting as agent for Catherine Slichter & Nicholas Aiuto

Attachments:

Copy of Staff Report with preliminary approval for Slichter ADU
Copy of email from Catherine Slichter authorizing Christi Weber as agent

cc

Catherine Slichter
Marsha Hacker
Alder Anita Weir
Alder Marsha Rummel
Susan Thering



Finance Department

David P. Schmiedicke, Finance Director

City-County Building, Room 406
210 Martin Luther King, Jr. Boulevard
Madison, Wisconsin 53703
Phone (608) 266-4671
Fax (608) 267-8705
finance@cityofmadison.com
www.cityofmadison.com/finance

Date: May 9, 2014

To: Board of Public Works

From: David Schmiedicke, Finance Director *DPS*

Subject: Park Related Impact Fees Appeal by Design Coalition, Inc. on behalf of Catherine Slichter and Nicholas Aiuto (Accessory Dwelling Unit at 425 Woodward Drive)

As you are aware, state law authorizes the imposition of an impact fee to pay for various improvements related to specific developments, including acquisition of parkland. City ordinances on this issue have been developed in response to and consistent with state law. Madison General Ordinance (MGO) Sec. 20.08(2) and MGO Sec. 20.08(6) establish the Park Development Impact Fee and the Parkland Impact Fee. Under the ordinance, all new developments pay for necessary off-site parks infrastructure and either dedicate land or pay a fee in lieu of dedication for public acquisition of parkland.

MGO Sec. 20.12 addresses the process under which a developer may contest the amount of an impact fee. Per the ordinance, the department which has imposed the fee under appeal is required to submit a written report and recommendation to the Finance Director who shall then make a recommendation to the Board of Public Works.

Design Coalition, Inc., on behalf of Catherine Slichter and Nicholas Aiuto, has appealed the parks fees imposed on the accessory dwelling unit (ADU) to be constructed on the property at 425 Woodward Drive. The appeal relates to whether the Park Development Impact Fee and the Parkland Impact Fee apply to the creation of an ADU (whether it is development subject to impact fees) and, if so, how these fees should apply to such units (if a specific ADU is defined as a new single-family unit or a duplex unit).

In their appeal, Design Coalition, Inc. submits that the ADU in question is not a new single-family unit or a new duplex and that the owner is not subdividing land, and therefore, the ADU is not development subject to the park impact fees. The City Attorney's Office has opined that an ADU is development subject to impact fees and these fees should be assessed at either a single-family or two-family dwelling unit rate depending on the construction of the unit.

Based on this information, the Parks Division has issued a report to the Finance Director with the recommendation that the appeal be denied.

After reviewing the report from the Parks Division, including the City Attorney's Office written opinion, it is the Finance Director's recommendation that the appeal should be denied.

play
**MADISON
PARKS**

Kevin Briski
Madison Parks Superintendent

Madison Parks Division
www.cityofmadison.com/parks

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Planning and Development
Community & Recreation Services
210 ML King, Jr. Blvd. Rm. 104
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Textnet: 866.704.2315

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Goodman Maintenance Facility
1402 Wingra Creek Pkwy.
West Parks, 608.266.9214
Summit, 608.288.6164
West Forestry, 608.266.4816
Construction, 608.266.6289
Conservation, 608.267.4918

Sycamore Maintenance Facility
4602 Sycamore Ave.
East Parks, 608.246.4508
East Forestry, 608.266.4816

Olbrich Botanical Gardens
3330 Atwood Ave., 608.246.4550

Warner Park Community
Recreation Center
1625 Northport Dr., 608.245.3690

Irwin A. & Robert D. Goodman Pool
325 Olin Ave., 608.264.9292

Golf Madison Parks
Supervisor, 608.838.3920
Glenway Golf Course
3747 Speedway Rd., 608.266.4737
Monona Golf Course
111 East Dean Ave., 608.266.4736
Odana Hills Golf Course
4635 Odana Rd., 608.266.4724
Yahara Hills Golf Course
6701 E. Broadway, 608.838.3126

State Street Mall/Concourse
Maintenance
120 S. Fairchild St., 608.266.6031

Forest Hill Cemetery
1 Speedway Rd., 608.266.4720



A Proud Division of
the City of Madison

TO: David Schmiedicke
Finance Director

FROM: Kevin Briski
Parks Superintendent *U. Briski*

DATE: May 2, 2014

SUBJECT: Appeal of Park Impact Fees for 425 Woodward Drive

On April 3, 2014, the Secretary to the Board of Public Works received a Notice of Appeal regarding the park impact fees assessed for the development at 425 Woodward Drive. The requestor, Christi Weber of the Design Coalition, submitted a request on behalf of her clients, Catherine Slichter and Nicholas Aiuto, to appeal the park impact fees imposed on the Accessory Dwelling Unit (ADU) to be constructed on her client's property. The park impact fees are shown as Condition #13 as set forth in the conditions of approval letter dated March 11, 2014. The Common Council approved the conditional use to construct an addition to an accessory building on a parcel to establish an accessory dwelling unit on a lakefront lot at 425 Woodward Drive at their March 10, 2014 meeting.

Ms. Weber's appeal (Attachment 1) asks that the "Park Development Fee be waived in full." As support for that relief, Ms. Weber makes various arguments about ADUs. In reviewing this appeal, it is clear that the question posed is whether ADUs are subject to the Impact Fee Ordinance, and, if so, how the Park Development Impact Fee and the Parkland Impact Fee should apply to the construction of such units.

In response to the question posed by this appeal, Assistant City Attorney Doran Viste provided the attached City Attorney's Office Memorandum regarding the Imposition of Park Related Impact Fees Upon the Creation of Accessory Dwelling Units (Attachment 2). It is the Assistant City Attorney's opinion that park impact fees do apply to the creation of an ADU and that they should be assessed at the single-family and two-family dwelling unit rate.

The information provided by Ms. Weber does not support a change in the assessment of park impact fees on ADUs. It is the Parks Division's recommendation that this appeal be denied. Please contact Kay Rutledge at 266-4714 or krutledge@cityofmadison.com if you have any questions or need additional information.

cc: Kay Rutledge



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P. 608-246-8846
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www.designcoalition.org

3 April 2014

Robert Phillips
City County Building 115
2010 Martin Luther King Jr. Blvd
Madison WI 53703

Dear Mr. Phillips,

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It is my understanding that "new SF/duplex unit" means a new single-family house or a new duplex. As my client is not proposing to build a new single-family house or a new duplex, I submit the following:

LEGAL & FACTUAL BASIS FOR THIS APPEAL:

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2. Categorization of ADUs as SF/Duplex: The park impact fee ordinance was enacted before ADUs were allowed in the City of Madison. The ordinance recognizes only two categories of

housing for the purposes of assessing park impact fees: "SF/duplex" and "multi-family" units. The decision to include ADUs in the "single family/duplex" category was made by city staff without legislative process or Council approval. "Had ADUs been in existence in 2006 when the parkland impact fee was created, perhaps the Council would have allowed a reduced impact fee on the creation of ADUs, as differential fees are allowed under statute." [Per phone and email communications between Doran Viste, Assistant City Attorney, and Susan Thering, Executive Director, Design Coalition Institute (cc)]

3. Definition of Subdivision: Chapter 20 of the City of Madison ordinance addresses impact fees. The sections of this chapter that address park impact fees are 20.08(2) and 20.08(6). Both of these sections rely solely on references to Chapter 16.23, which is devoted to "Land Subdivision Regulations." Further, the section of Chapter 20 that describes penalties for non-payment of park impact fees relies on provisions in Chapter 16.23. There are no other chapters or sections referenced in regard to park impact fees. A homeowner/occupant building an ADU is not subdividing land by any common idea or by any legal definition of subdivision in the City of Madison ordinances. A homeowner building an ADU on their property for an aging parent or an adult dependent child is not the same as a for-profit developer subdividing land and building houses to sell. Common sense alone suggests that this is a false equivalent and imposing the same fee is an unfair burden on the homeowner/occupant.

4. False Equivalent of Impact on Parks:

The intention of park impact fees is to cover the cost of purchasing and maintaining parkland in increments deemed equivalent to the increase in park use by each additional unit of housing built in the City of Madison. I fully understand and support the intentions of this ordinance. However, comparing the impact of an ADU, which by law can be no bigger than 700 square feet, with the impact of a new single-family house or a duplex is quantifiably wrong: At 700 square feet, a typical ADU will have one bedroom. A typical new single-family house will have a minimum of three bedrooms, and a typical duplex up to twice that. Again, common sense suggests that this is a false equivalent and an unfair burden on the homeowner/occupant.

5. Council's Intentions:

The City Council's intentions regarding approval of new allowances for ADUs in the zoning code includes opening up new opportunities for affordable housing and housing for elderly and dependent family members:

"Statement of Purpose (Draft 4/20/09)

The ADU Overlay District is created to enable the establishment of accessory dwelling units within all residential districts. Accessory dwelling units give neighborhoods the opportunity to provide affordable housing opportunities, to provide housing opportunities for elderly or other family members, and to utilize their land base more efficiently."

https://www.cityofmadison.com/neighborhoods/zoningrewrite/documents/ADU_OverlayDistricts.pdf

We have seen an overwhelming amount of interest in Accessory Dwelling Units by homeowners with modest incomes who wish to accommodate aging parents or adult dependent children. Others are interested in adding an ADU to provide themselves with an option for aging in place when they are no longer able to negotiate the stairs and narrow doorways in their own conventionally built homes.

In that regard, a homeowner planning for a modest ADU may not be able to afford the monthly mortgage payment once the additional cost of the park fees are included. For example, a park fee of \$3,858 for a modest ADU could add up to 9-10% to the construction budget/total mortgage. For the average Madison homeowner, this can render the project unaffordable and deny their ability to accommodate an aging parent or adult dependent child. This is especially true if the additional monthly costs are significantly more than the savings realized by keeping aging parents or adult dependent children at home, which was among the original intentions of creating the ADU Overlay District.

RELIEF SOUGHT

Based on the legal and factual basis detailed above, I request that the Park Development Fee be waived in full.

Thank you,



Christi Weber, Design Coalition, Inc.
Acting as agent for Catherine Slichter & Nicholas Aiuto

Attachments:

Copy of Staff Report with preliminary approval for Slichter ADU
Copy of email from Catherine Slichter authorizing Christi Weber as agent

cc

Catherine Slichter
Marsha Hacker
Alder Anita Weir
Alder Marsha Rummel
Susan Thering

From: Catherine Silchler <cathy.silchler@gmail.com>
Subject: Appeal to Impact fees for ADU unit at 425 Woodward Drive
Date: April 1, 2014 2:15:42 PM CDT
To: Christl Weber <christl@designcoalition.org>, Sue Thering <susan@designcoalition.org>

Please accept this e-mail as authority for Christl Weber, Design Coalition Architects and Sue Thering, Design Coalition Institute, to file on my behalf the appeal on Impact fees associated with construction of an ADU unit on my property.

Thank you,

Catherine Linda Silchler

Sent from my iPad

CITY OF MADISON
CITY ATTORNEY'S OFFICE
Room 401, GCB
266-4611

MEMORANDUM

TO: Parks Superintendent Kevin Briski
City Engineer Rob Phillips
Finance Director David Schmiedicke

FROM: Doran Viste, Assistant City Attorney

DATE: April 30, 2014

RE: Imposition of Park Related Impact Fees Upon the Creation of Accessory Dwelling Units

I have been asked to provide an opinion about whether the Park Development Impact Fee and Parkland Impact Fee apply to the creation of an accessory dwelling unit (ADU), and if so, how these units should be treated under the City's impact fee law. It is my conclusion that impact fees do apply to the creation of an ADU and that they should be charged the single-family and two-family dwelling unit rate.

History of ADUs in the City of Madison

ADUs are a creation of the new zoning code that became effective on January 2, 2013. Under MGO Sec. 28.211 they are defined as follows:

Accessory Dwelling Unit. A second dwelling unit contained within a single-family dwelling or within a detached building located on the same lot as a single-family dwelling. This definition includes accessory buildings constructed in connection with a private garage or a private garage converted into a dwelling unit.

A dwelling unit is defined in the same section as follows:

Dwelling Unit. One or more rooms which are arranged, designed or used as living quarters for one family only. Individual bathrooms and a complete kitchen facility, permanently installed, shall always be included with each dwelling unit. No dwelling unit may have more than one kitchen facility except that a single-family detached dwelling may have more than one kitchen facility provided the dwelling is designed, arranged or used as living quarters for one family only. For purposes of this exception, the family shall not include roomers.

ADUs are conditional uses in residential and some mixed-use commercial districts. They add a second residential dwelling unit to a lot where only one dwelling unit previously existed. Under the zoning code, the existing single-family dwelling on the lot must be owner-occupied and the ADU must meet certain size and design criteria. Once built, these units can be rented, but they cannot be sold separate from the owner-occupied house. They can house one family, or up to two unrelated individuals. To

April 30, 2014

Page 2

date, only a few ADUs have been approved by the City, but the zoning administrator reports a growing amount of inquiries about the addition of ADUs in the City.

The Creation of an ADU is Subject to the Impact Fee Ordinance

Pursuant to the powers granted the City under Wis. Stat. Sec. 66.0617, the City of Madison adopted the current impact fee ordinance in 2002. This ordinance, Madison General Ordinances Chapter 20, follows the statutory requirements about imposing impact fees and, to date, has established twelve different impact fees that apply to development in the City.¹ All but one of these impact fees (the Jeffy Trall Sanitary Sewer Improvement Impact Fee) was created before ADUs were allowed in the City.

As a general matter, impact fees are meant to allow the City to recover the capital costs incurred by the City to serve new development. Under MGO Sec. 20.06(1), impact fees apply to any "developments" which occur in the City. "Development" is defined under MGO Sec. 20.04(8) as follows:

the construction or modification of improvements to improved or unimproved real property that creates additional residential dwelling units or that results in new or expanded nonresidential uses, the use of any principal structure or land, or any other activity that requires issuance of a building permit or creates a need for new, expanded or improved public facilities within the City.

In addition to the definition set forth above from MGO Sec. 28.211, "dwelling unit" is also defined at MGO Sec. 29.03 as being "one (1) or more rooms with provisions for living, cooking, sanitary, and sleeping facilities arranged for use by one (1) family." Hence, because ADUs have a separate kitchen, bathroom and bedroom than the main building (which is a requirement for a unit to be considered an ADU), they are considered dwelling units under both the zoning code and the building code. Hence, the creation of an ADU clearly falls under the definition of "development" and is therefore subject to the City's impact fee ordinance.

Determination of Park Related Impact Fees

Of the City's twelve impact fees, one is based upon trip generation associated with the development, eight are based upon the net developable area of the development, and three are based upon the number of dwelling units being created by the development. Of those three, two, the Park Development Impact Fee and the Parkland Impact Fee (the "park related impact fees"), base the impact fee determination upon the type of dwelling units being created by the development.

Under the park related impact fees, there are three tiers of impact fees:

¹ The Lower Badger Mill Creek Sewer and Drainage Improvement Impact Fee is one impact fee that consists of two separate impact fee zones (one for stormwater and one for sanitary sewer) with different boundaries and different methods to determine the impact fee. For the purposes of this analysis, these impact fee zones are treated as two separate impact fees.

- First tier: single-family and two-family dwelling units;
- Second tier: multi-family dwelling units, other than duplex units;
- Third tier: rooming houses and multi-family age restricted housing.

Because the Park Development Impact Fee was created in 2002 and the Parkland Impact Fee was created in 2006, 11 and 7 years respectively before the creation of ADUs in the City, the park related impact fees tier structure does not specifically account for ADUs. Hence, the question is which, if any, category does the creation of an ADU fall under.

An ADU is either a Single-Family Detached Dwelling Unit or a Two-Family Dwelling Unit

First off, ADUs, by definition, are not rooming houses (which, as defined in MGO Sec. 29.03, are limited to sleeping quarters for five or more unrelated persons with shared bathrooms/kitchens)². In addition, multi-family dwellings are defined in the building code at MGO Sec. 29.03 as being buildings containing three (3) or more dwelling units, and defined in the zoning code at MGO Sec. 28.211 as being a building designed exclusively for occupancy by four (4) or more families living independently of each other in individual dwelling units. Because an ADU may only be created on a single-family lot, it can never fall under the multi-family categories as it will never create a third or fourth dwelling unit on a lot. As a result, by definition, an ADU can never meet the criteria to fall under the second or third tier of the park related impact fees.

Under MGO Sec. 29.03 of the building code, single-family and two-family dwelling units are defined as follows:

1. Single-family Dwelling. A single-family dwelling is a building containing one (1) dwelling unit only.
2. Two-family Dwelling. A two-family dwelling is a building containing two (2) dwelling units only.

Under MGO Sec. 28.211 of the zoning code, single-family and two-family dwelling types are differentiated as follows:

- (a) Dwelling, Single-Family Detached. A building designed exclusively for and occupied exclusively by one (1) family in one (1) dwelling unit, with yards on all sides.
- (b) Dwelling, Two-Family – Two-Unit. A building containing two dwelling units that generally are vertically stacked one above the other, with a separate entrance to each unit and with yards on all sides.
- (c) Dwelling, Two-Family – Twin. A single-family dwelling which is attached

² Under MGO Sec. 29.03, a rooming house is also known as a lodging house, and is defined as being a dwelling containing lodging rooms that will accommodate five or more persons not members of the same family. A lodging room is a portion of a dwelling used primarily for sleeping and living purposes, excluding cooking facilities.

on one side to another single-family dwelling with a common side wall, each of which may be located on an individual lot.

- (e) Dwelling, Single-Family Attached. A one-family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having totally exposed front and rear walls to be used for access, light and ventilation.

Depending on the zoning district, an ADU may be either attached to or detached from the single-family dwelling on the same lot.³ Hence, under the Madison General Ordinances, if the newly created ADU is attached to the single-family dwelling, the creation of the ADU is the creation of a two-family dwelling (which may be either a two-unit or twin); if the newly created ADU is detached from the single-family dwelling, the creation of the ADU is the creation of a single-family detached dwelling.

Conclusion

While ADUs were not in existence at the time the City's park related impact fees were created, the creation of an ADU is development subject to impact fees, and should be assessed the single-family or two-family dwelling unit rate at the time a building permit is sought for the development.

Isl Doran Viste

Doran Viste

³ Under MGO Sec. 28.151 of the current zoning code, an ADU may only be attached to a single-family dwelling in the TR-P (Traditional Residential-Planned) District. In all other districts, an ADU must be detached.

CITY OF MADISON
CITY ATTORNEY'S OFFICE
Room 401, CCB
266-4511

MEMORANDUM

TO: Parks Superintendent Kevin Briski
City Engineer Rob Phillips
Finance Director David Schmiedicke

FROM: Doran Viste, Assistant City Attorney

DATE: April 30, 2014

RE: Imposition of Park Related Impact Fees Upon the Creation of Accessory Dwelling Units

I have been asked to provide an opinion about whether the Park Development Impact Fee and Parkland Impact Fee apply to the creation of an accessory dwelling unit (ADU), and if so, how these units should be treated under the City's impact fee law. It is my conclusion that impact fees do apply to the creation of an ADU and that they should be charged the single-family and two-family dwelling unit rate.

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ADUs are conditional uses in residential and some mixed-use commercial districts. They add a second residential dwelling unit to a lot where only one dwelling unit previously existed. Under the zoning code, the existing single-family dwelling on the lot must be owner-occupied and the ADU must meet certain size and design criteria. Once built, these units can be rented, but they cannot be sold separate from the owner-occupied house. They can house one family, or up to two unrelated individuals. To

date, only a few ADUs have been approved by the City, but the zoning administrator reports a growing amount of inquiries about the addition of ADUs in the City.

The Creation of an ADU is Subject to the Impact Fee Ordinance

Pursuant to the powers granted the City under Wis. Stat. Sec. 66.0617, the City of Madison adopted the current impact fee ordinance in 2002. This ordinance, Madison General Ordinances Chapter 20, follows the statutory requirements about imposing impact fees and, to date, has established twelve different impact fees that apply to development in the City.¹ All but one of these impact fees (the Jeffy Trail Sanitary Sewer Improvement Impact Fee) was created before ADUs were allowed in the City.

As a general matter, impact fees are meant to allow the City to recover the capital costs incurred by the City to serve new development. Under MGO Sec. 20.06(1), impact fees apply to any "developments" which occur in the City. "Development" is defined under MGO Sec. 20.04(8) as follows:

the construction or modification of improvements to improved or unimproved real property that creates additional residential dwelling units or that results in new or expanded nonresidential uses, the use of any principal structure or land, or any other activity that requires issuance of a building permit or creates a need for new, expanded or improved public facilities within the City.

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on one side to another single-family dwelling with a common side wall, each of which may be located on an individual lot.

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Isl Doran Viste

Doran Viste

³ Under MGO Sec. 28.151 of the current zoning code, an ADU may only be attached to a single-family dwelling in the TR-P (Traditional Residential-Planned) District. In all other districts, an ADU must be detached.



Department of Planning & Community & Economic Development

Planning Division

Katherine Cornwell, Director

Madison Municipal Building, Suite LL-100

215 Martin Luther King, Jr. Boulevard

P.O. Box 2985

Madison, Wisconsin 53701-2985

Phone: (608) 266-4635

Fax (608) 267-8739

www.cityofmadison.com

March 11, 2014

Christi Weber
Design Coalition, Inc
2088 Atwood Avenue
Madison, WI, 53704

RE: Approval of a conditional use to construct an addition to an accessory building exceeding 800 square feet of floor area and 1,000 gross square feet on a parcel to establish an accessory dwelling unit on a lakefront lot at **425 Woodward Drive**.

Dear Ms. Weber:

At its March 10, 2014 meeting, the Plan Commission, meeting in regular session, approved your client's request for conditional uses at 425 Woodward Drive to construct an addition to an accessory building exceeding 800 square feet of floor area and 1,000 gross square feet on a parcel to establish an accessory dwelling unit on a lakefront lot zoned SR-C1. In order to receive final approval of the conditional use and for permits to be issued, the following conditions must be met:

Please contact Janet Dailey of the City Engineering Division at 261-9688 if you have questions regarding the following seven (7) conditions.

1. The location of the existing sanitary sewer and sanitary sewer easements shall be shown and labeled on the site plan. The easement documents are recorded at the Dane County Register of Deeds Office as Document No.'s 929392 and 929393.
2. The Accessory Dwelling Unit (ADU) has been assigned an address of 427 Woodward Drive.
3. The Applicant shall show the sanitary sewer main and laterals to serve the new addition.
4. The site plan shall identify lot and block numbers of recorded Certified Survey Map or Plat.
5. The site plan shall reflect a proper street address of the property as reflected by official City of Madison Assessor's and Engineering Division records.
6. The site plan shall include a full and complete legal description of the site or property being subjected to this application.

7. The applicant shall submit, prior to plan sign-off, digital PDF files to the Engineering Division (Jeff Benedict or Tim Troester). The digital copies shall be to scale, and shall have a scale bar on the plan set (POLICY and MGO 37.09(2)). PDF submittals shall contain the following information:
 - a) Building footprints.
 - b) Internal walkway areas.
 - c) Internal site parking areas.
 - d) Lot lines and right-of-way lines.
 - e) Street names.
 - f) Stormwater Management Facilities.
 - g) Detail drawings associated with Stormwater Management Facilities (including if applicable planting plans).

Please contact Patrick Anderson, Assistant Zoning Administrator at 266-5978 if you have questions regarding the following four (4) items:

8. A variance from the required front yard setback and garage expansion was granted 12/12/2013
9. Meet all Supplemental regulations pursuant to Section 28.151, (Accessory Dwelling Unit).
10. The basement area may only be used for storage and shall not be designed for future habitable space. The floor to ceiling height shall not exceed 6 feet in the basement as shown on submitted plans.
11. The submitted plans show a 10'x20' surface parking stall that projects into the front setback. Provide for the final plan sets parking stalls that are clearly outside of the 30' front setback.

Please contact Bill Sullivan, Madison Fire Department at 261-9658 if you have questions regarding the following item:

12. Madison Fire Department recommends the installation of a residential fire sprinkler system in accordance with NFPA 13D and SPS 382.40(3)(e). Additional information is available at the Home Fire Sprinkler Coalition website: <http://www.homefiresprinkler.org/Consumer/ConsHome.html>

Please contact Kay Rutledge, Parks Division at 266-4816 if you have questions regarding the following three (3) items:

13. The applicant shall pay approximately \$3,858.27 for park dedication and development fees for the new SF/duplex unit. The applicant must select a method for payment of park fees before signoff on the conditional use.
14. Approval of plans for this project does not include any approval to prune, remove or plant trees in the public right-of-way. Permission for such activities must be obtained from the City Forester, 266-4816.
15. This development is within the Warner park impact fee district (SI21). Please reference ID# 13177 when contacting Parks about this project.

Please contact my office at 267-1150 if you have questions on the following item:

16. That prior to the sign-off of this conditional use and issuance of permits, the applicant shall provide evidence that the State of Wisconsin Historical Society has provided their required approvals.

Specific questions regarding the comments or conditions contained in this letter should be directed to the commenting agency.

Please now follow the procedures listed below for obtaining your conditional use:

1. Please revise your plans per the above conditions and submit nine (9) copies of a complete, fully dimensioned and scaled plan set to the Zoning Administrator for final review and comment. Also be sure to include any additional materials requested by these departments for their approval prior to sign off. The final site plan shall be accompanied by the appropriate site plan review application and fee pursuant to Section 28.206 of the Zoning Code, and any other documentation requested herein with the Zoning Administrator, Room LL-100, Madison Municipal Building, 215 Martin Luther King, Jr. Boulevard. The sets of final revised plans or documents will be circulated by the Zoning staff to the City department staff listed above for their final approval.
2. This property is not in a wellhead protection district. All wells located on this property shall be abandoned if no valid well operation permit has been obtained from the Madison Water Utility. The Water Utility will not need to sign off the final plans, and will not need a copy of the approved plans.
4. This letter shall be signed by the applicant to acknowledge the conditions of approval and returned to the Zoning Administrator when requesting conditional use approval.
5. The approval is valid for one (1) year from the date of the Plan Commission approval. During this time, the applicant must either lawfully commence the use or obtain a building permit and begin erecting the building. If the applicant obtains a valid building permit, construction must commence within six (6) months of the date of issuance. The building permit shall not be renewed unless construction has commenced as is being diligently prosecuted.
6. Any alteration in plans for a proposed alternative use shall require Plan Commission approval, except for minor alterations. The Zoning Administrator may issue permits for minor alterations or additions which are approved by the Director of Planning and Community and Economic Development and are compatible with the concept approved by the City Plan Commission and the conditional use approval standards.
7. The Plan Commission retains continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses.

425 Woodward Drive
March 11, 2014
Page 4

If you have any questions regarding obtaining your conditional use, demolition or building permits, please contact the Zoning Administrator at 266-4551. If you have any questions or if I may be of any further assistance, please do not hesitate to contact my office at 267-1150.

Sincerely,

Kevin Firchow, AICP
Planner

cc: Janet Dailey, City Engineering Division
Eric Halvorson, Traffic Engineering Division
Bill Sullivan, Fire Department
Patrick Anderson, Zoning
Kay Rutledge, Parks

I hereby acknowledge that I understand and will comply with the above conditions of approval for conditional use.

Signature of Applicant

Signature of Property Owner (if not the applicant)

For Official Use Only, Re: Final Plan Routing			
<input checked="" type="checkbox"/>	Planning Div. (Firchow)	<input checked="" type="checkbox"/>	Engineering Mapping Sec.
<input checked="" type="checkbox"/>	Zoning Administrator	<input checked="" type="checkbox"/>	Parks Division
<input checked="" type="checkbox"/>	City Engineering	<input type="checkbox"/>	Urban Design Commission
<input checked="" type="checkbox"/>	Traffic Engineering	<input type="checkbox"/>	Recycling Coord. (R&R)
<input checked="" type="checkbox"/>	Fire Department	<input type="checkbox"/>	Other:

From: Catherine Slichter <cathy.slichter@gmail.com>
Subject: **Appeal to impact fees for ADU unit at 425 Woodward Drive**
Date: April 1, 2014 2:15:42 PM CDT
To: Christi Weber <christi@designcoalition.org>, Sue Thering <susan@designcoalition.org>

Please accept this e-mail as authority for Christie Weber, Design Coalition Architects and Sue Thering, Design Coalition Institute, to file on my behalf the appeal on impact fees associated with construction of an ADU unit on my property.

Thank you,

Catherine Linda Slichter

Sent from my iPad

Hacker, Marsha

From: Sue Thering [susan@designcoalition.org]
Sent: Wednesday, May 07, 2014 11:37 AM
To: Cornwell, Katherine; Strange, John
Cc: Weier, Anita; Rummel, Marsha; Phillips, Rob; Hacker, Marsha; Cathy Slichter; Christi Weber; Viste, Doran
Subject: Request for Action RE: Park Impact Fees and Accessory Dwelling Units (ADUs)
Attachments: Memo re Applicability of Park Related Impact Fees to the Creation of an ADU.pdf; ATT00001.htm; Appeal of Park Impact Fees.pdf; ATT00002.htm

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Katherine and John,

Thank you for your continued efforts on behalf of the residents of Madison.

I've been advised to request your attention to the matter of the appeal my team submitted on behalf of Catherine Slichter (cc)

regarding park fees, and our request for a written response to that appeal from the Planning Division.

We have yet to hear that our request is being acted upon, and the deadline imposed by the rules of appeal (copy below)

is quickly approaching. Your assistance in this matter will be much appreciated.

Briefly:

As of 1 Jan 2013 ADUs are allowed as a conditional use on all owner-occupied single-family detached homes in the city.

The current Park Impact Fee ordinance was written before ADUs were allowed.

The current fee schedule has two main categories: "Single-family/Duplex" and "Multi-Family."

Having no category for ADUs, the Parks Department chose to use the "Single-family/Duplex" schedule to calculate fees for ADUs.

The result is that homeowners adding ADU "granny flats" to their private homes will pay fees equivalent to a developer building new single-family or duplex houses.

Following protocol, my team submitted an appeal to the Director of Public Works (cc) on behalf of the homeowner.

The appeal ordinance instructs the Director of Public works to request a written response from the "appropriate Commission department or utility manager."

The Director requested a written response from the Parks Department.

My team is requesting a formal written response from the Planning Department.

The Planning Department staff worked closely with the Council on drafting the ADU code.

Thus, they are most knowledgeable about the details of code itself, and about of the intentions of the Council in passing that code.

There is nothing in the appeal protocol prohibiting the Director of Public Works from soliciting more than one written response.

We believe there is a risk that the Parks Department's response is more motivated by the collection of fees that exclusively benefit their mission than the intentions of the Council relative to ADUs. Thus we believe the

Planning Department's response to the appeal will be essential for a fair hearing.

Below is a copy of the Appeals protocol.

Attached please find:

1. A copy of our appeal
2. A copy of the response to our appeal from Assistant City Attorney Viste (cc) on behalf of the Parks Department

We respectfully request your attention to this matter.

My office contact information is below, but my cell phone is the best way to reach me

608.213.8469

Thank you again,

Susan Thering

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