



MEMORANDUM

TO: CITY COUNCIL

FROM: TERESA MCCLISH, COMMUNITY DEVELOPMENT DIRECTOR
HEATHER WHITHAM, CITY ATTORNEY

SUBJECT: CONSIDERATION OF RESOLUTION DELEGATING AUTHORITY TO THE CITY MANAGER OR HIS DESIGNEE TO REMOVE DEED RESTRICTIONS REGARDING THE USE OF ACCESSORY DWELLING UNITS

DATE: OCTOBER 24, 2017

SUMMARY OF ACTION:

Adoption of the proposed Resolution will authorize the City Manager to remove deed restrictions previously recorded against properties containing accessory dwelling units, when requested by the property owner.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

There are no fiscal impacts to the City by delegating authority to the City Manager to remove deed restrictions.

RECOMMENDATION:

It is recommended the City Council adopt the Resolution delegating authority to the City Manager or his designee to remove deed restrictions stipulating that accessory dwelling units cannot be sold apart from the primary residence and, within Single-Family zoning districts, the owner of the property must occupy one of the dwellings located on the property.

BACKGROUND:

At the October 10, 2017 City Council meeting, the Council introduced an Ordinance amending Section 16.52.150 of the Municipal Code regarding accessory dwelling units in order to comply with certain changes in State law. In its consideration of the Ordinance, the Council deleted Subsection 16.52.150.C.10. which required that a deed restriction be recorded against the title of property containing an accessory dwelling unit prior to issuance of a building permit. That deed restriction stipulated that accessory dwelling units cannot be sold apart from the primary residence and, within single-family zoning districts, the owner of the property must occupy either the primary residence or the accessory dwelling unit. In addition to deleting the deed restriction requirement, the

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CONSIDERATION OF RESOLUTION DELEGATING AUTHORITY TO THE CITY MANAGER TO REMOVE DEED RESTRICTIONS REGARDING THE USE OF SECONDARY UNITS

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Council directed staff to return with an agenda item at the October 24th meeting that would authorize the City Manager to remove deed restrictions from the title of real properties that previously were encumbered by such a deed restriction. Accordingly, the attached Resolution which delegates such authority to the City Manager or his designee has been prepared for Council consideration. The Resolution will take effect upon the effective date of the Ordinance.

ANALYSIS OF ISSUES:

Property owners have complained that these accessory dwelling unit deed restrictions encumbering their property affects the value and salability of the property, primarily because the property cannot be rented. Property owners have also complained that the existence of the accessory dwelling unit deed restriction can significantly affect their ability to get financing to acquire a property. Accessory dwelling units cannot be separately sold from the underlying lot regardless of the existence of the deed restriction, pursuant to the provisions of the Subdivision Map Act.

ALTERNATIVES:

The following alternatives are provided for the Council's consideration:

1. Adopt a Resolution delegating authority to the City Manager or his designee to remove certain deed restrictions regarding accessory dwelling units;
2. Do not adopt the Resolution; or
3. Provide other direction to staff.

ADVANTAGES:

Authorizing the City Manager to remove accessory dwelling unit deed restrictions will increase the value of a property currently encumbered by a deed restriction, will enhance the ability of the purchasers to finance the property and will provide flexibility for the property owner to rent the property to third parties.

DISADVANTAGES:

Eliminating the deed restriction stipulating that the owner of the property must occupy either the primary residence or the accessory dwelling unit may affect the single-family character of the property and the surrounding neighborhood, as it may lead to more rentals and related impacts to the neighborhood, real or perceived.

ENVIRONMENTAL REVIEW:

No environmental review is required for this item.

PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DELEGATING AUTHORITY TO THE CITY MANAGER OR HIS DESIGNEE TO REMOVE CERTAIN DEED RESTRICTIONS REGARDING ACCESSORY DWELLING UNITS

WHEREAS, the City of Arroyo Grande has required deed restrictions be recorded against properties containing an accessory dwelling unit stipulating that the accessory dwelling unit cannot be sold apart from primary residence and, within single-family zoning districts, the owner of the property must occupy either the primary residence or the accessory dwelling unit; and

WHEREAS, by way of Ordinance No. _____, said deed restriction requirement set forth in AGMC subsection 16.52.150.C.10 was determined to be unnecessary by the City Council and was deleted from the Municipal Code; and

WHEREAS, the Council further directed that a process be established enabling the removal of such deed restrictions on properties previously encumbered when so requested by the property owner and that the authority to remove such deed restrictions be delegated to the City Manager or his designee.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Arroyo Grande as follows:

1. The City Manager or his designee is hereby delegated the authority to remove deed restrictions previously recorded against properties containing an accessory dwelling unit stipulating that the accessory dwelling unit cannot be sold apart from the primary residence and, within single-family zoning districts, the owner of the property must occupy either the primary residence or the accessory dwelling unit, pursuant to former AGMC subsection 16.52.150.C.10, at the request of the property owner.
2. This Resolution shall take effect on the effective date of Ordinance No. _____.

On motion of Council Member _____, seconded by Council Member _____, and by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

the foregoing Resolution was passed and adopted this ____ day of _____, 2017.

**RESOLUTION NO.
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JIM HILL, MAYOR

ATTEST:

KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:

JAMES A. BERGMAN, CITY MANAGER

APPROVED AS TO FORM:

HEATHER K. WHITHAM, CITY ATTORNEY