



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of March 13, 2018

TO: Members of the City Council

SUBMITTED BY: Holly Smyth, AICP, Planning Director

SUBJECT: Consider Approving an Ordinance to Adopt Proposed Zone Text Amendment #ZTA 18-01 related to Accessory Dwelling Units

RECOMMENDATION:

Receive staff presentation, open the public hearing, waive the First Reading, and introduce an Ordinance for #ZTA 18-01 modifying the Hercules Zoning Ordinance by repealing and replacing Section 35.320 and modifying Section 60.200 regarding Accessory Dwelling Units (ADUs).

COMMISSION/SUBCOMMITTEE ACTION AND RECOMMENDATION:

On February 20, 2018 the Planning Commission held a public hearing and adopted the attached Recommending Resolution 18-03 (Attachment 2), which reflects the proposed modifications to two sections of the City's Zoning Ordinance to be in conformance with State law that went into effect on January 1, 2017. The recommended modifications were based on the Commission's discussions at their August 7, 2017 and January 16, 2018 meetings with some of the provisions required by State law. Attachment 3 shows redlined tracked changes of the existing Zoning Ordinance with the modifications. The attached Planning Commission reports from August, January and February are shown in Attachment 4 to reflect the progression of the draft Ordinance, various brochures from the state and the various staff reports on the topic.

FISCAL IMPACT OF RECOMMENDATION:

The ordinance requires payment of the multi-family impact fee for each ADU given that ADUs have similar impacts in terms of size and occupancy and staff has determined that this fee is proportional to those impacts. Conversions of existing "living spaces" will not be charged impact fees in accordance with the City's current practice.

DISCUSSION:

The state has passed legislation that limits the ability of local government to regulate the construction of new Accessory Dwelling Units, also commonly referred to as “second units.” The state considers the legislation a way of helping to address the state’s housing crisis, particularly as it relates to affordable housing. The new law went into effect on January 1, 2017¹. It contains specific language that renders “null and void” all existing City ordinances regulating ADUs, unless the local ordinance is updated to be consistent with the requirements of the new state legislation.

In response to the new ADU state legislation, staff brought a report detailing the state law and new requirements for local jurisdictions to the Planning Commission as discussed above. The Planning Commission requested a minor change to ordinance in order to allow “detached” ADUs to be the lesser of 50% of the existing living area of the single family home or 1,200 square feet (instead of an 800 square foot maximum previously contained in the City’s ordinance). The Planning Commission also clarified that all types of ADUs require an exterior entrance, as allowed by law.

The statutory scheme governing ADUs (Gov. Code sections 65852.1 et seq.) establishes requirements for three types of ADUs:

1. ADUs within existing structures
2. ADUs attached to existing structures
3. Detached ADUs

To avoid confusion and to promote consistency, the draft ordinance incorporated the state law distinctions regarding ADU types so that it is clear (i) what type of ADU the applicant is seeking to be permitted, and (ii) what development standards apply to that type of ADU. A summary of the three types of ADUs follows:

I. ADUs within existing structures

This type of ADU is created wholly within an existing structure. State law requires that such an existing structure include a single family residence, accessory structure, or a garage. No "new construction" would be required *outside* of the existing structure (i.e. only walls or other indoor improvements) -- so there is no square footage limit for this type. ADUs within existing structures only require building permits (i.e. NOT an administrative use permit, like the other two types of ADUs), which is a state law requirement. This type of ADU must still meet applicable building and safety codes, have independent exterior access, and "sufficient" side/rear setbacks for fire safety. The City cannot require this type of ADU to create new/separate utility/sewer connections.

II. ADUs attached to existing structures.

Per state law, this type of ADU cannot exceed 50% of the existing living area (as defined) with a maximum increase of 1200 square feet. State law allows the City to decide whether it wants to require separate utility/sewer connections. The Public Works Director sees no need to require separate utilities. As for separate sewer connections, the Public Works Director would like that determination made on a case-by-case basis, and subject to the City’s approval, depending on the building/construction conditions existing at the location.

¹ Two additional bills providing minor amendments to the law (SB 229 and AB 494) were signed later in 2017. All references to the new state legislation include those updates and refer to the law as it exists today.

III. Detached ADUs.

This type of ADU is completely detached from the existing structure, as currently proposed cannot be more than 1200 square feet or 50% of the main structure size whichever is smaller. Similar to the attached type, the City can decide whether it wants to require separate utility/sewer connections. The Public Works Director sees no need to require separate utilities. As for sewer connections, the Public Works Director would like that determination made on a case-by-case basis, and subject to the City's approval, depending on the building/construction conditions existing at the location.

Other requirements.

All ADUs are required to comply with the following requirements. These requirements are specified in the proposed ordinance:

Design Standards — ADUs must conform to design and architectural characteristics of the existing single family home, building materials, paint color, landscape buffer, etc.

Fire sprinklers — ADUs must comply with all applicable state and local fire safety provisions. State law does not allow the City to require sprinkler installation in ADUs unless sprinklers are also required for the existing residence. The ordinance currently contains a requirement for sprinklers when the existing residence is required to have sprinklers.

Parking — The parking standards in the ordinance mirror state law requirements, so they must be included “as-is.”

Fees — The ordinance requires payment of all Multi-Family unit impact fees.

Attachments:

- 1** Draft Ordinance on Accessory Dwelling Units
- 2** Planning Commission Recommending Resolution 18-03
- 3** Redlined Tracked changes of Proposed Ordinance
- 4** Staff Reports with Attachments from 2/20/18, 1/16/18 and 8/7/17 Planning Commission