

RESOLUTION NO. 18-03

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERCULES RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE REPEALING AND REPLACING SECTION 35.325 OF THE ZONING ORDINANCE AND AMENDING SECTION 60.200 OF THE HERCULES ZONING ORDINANCE REGARDING ACCESSORY DWELLING UNITS CONSISTENT WITH CHANGES IN STATE LAW

WHEREAS, the California Legislature requires and authorizes cities to provide for secondary, smaller housing units on residential parcels ("accessory dwelling units" or "ADUs"), at Government Code section 65852.2; and

WHEREAS, the California Legislature recently amended Government Code section 65852.2 to refer to such units as "accessory dwelling units" ("ADUs"), and to streamline their approval, minimize parking requirements, and otherwise encourage the local approval of ADUs; and

WHEREAS, the City proposes to update its requirements, retitle that section, and make consistent amendments to definitions within the Zoning Ordinance to conform to current state law; and

WHEREAS, the Planning Commission considered the updated state law requirements in August of 2017, and considered a draft ordinance and proposed revisions to said draft ordinance in January of 2018; and

WHEREAS, at a properly noticed public hearing on February 20, 2018, the Planning Commission reviewed the revised draft ordinance ("ADU Ordinance") and considered the staff report, supporting documents, public testimony, and all appropriate information submitted and recommended that the City Council adopt the ADU Ordinance, repealing and replacing section 32.325 of the Zoning Ordinance (Second Residential Units) and incorporating corresponding amendments to section 60.200 (Definitions); and

WHEREAS, adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that it can be seen with certainty that there is no possibility for the ordinance to have a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED:

1. The foregoing recitals are true and correct and made a part of this Resolution.
2. The Planning Commission finds as follows:
 - a. The proposed amendment to the Zoning Ordinance is consistent with the General Plan.
 - b. The proposed amendment to the Zoning Ordinance would not be detrimental to the health, safety, welfare and public interest of the City.
 - c. The proposed amendment to the Zoning Ordinance is internally consistent and does not conflict with the purposes, regulations and required findings of the Zoning Ordinance.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF HERCULES RECOMMENDS THAT THE CITY COUNCIL:

1. Find that this ordinance is exempt from CEQA pursuant to CEQA Guideline Section 15061(b)(3) because it can be seen with certainty that there is no possibility for the ordinance to have a significant effect on the environment.
2. Consider adopting an Ordinance approving the attached Exhibit A Zone Text Amendment #ZTA 18-01 for Accessory Dwelling Unit policy that would repeal and replace section 32.325 of the Zoning Ordinance (Second Residential Units) and incorporate corresponding amendments to section 60.200 (Definitions) after holding a duly noticed public hearing (anticipated to be March 13, 2018) and having a first and second reading of the Ordinance.

PASSED, AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF HERCULES on this 20th day of February 2018, by the following votes:

AYES: Morrison, Rubio, Bailey

NOES: None

ABSENT: Galieva and Tolley

ABSTAIN: None


Dion Bailey, Chair

ATTEST:


Holly P. Smyth, Planning Director &
Secretary

Exhibit A: Zone Text Amendment #ZTA 18-01 – Accessory Dwelling Unit (ADU) Ordinance language, amending the Hercules Zoning Ordinance sections 35.325 and 60.200.

PROPOSED ZONE TEXT AMENDMENT #ZTA 18-01 – ACCESSORY DWELLING UNIT

35.320 Accessory Dwelling Units

1. Purpose. This section is intended to implement the General Plan policies which encourage Accessory Dwelling Units (ADUs) on owner-occupied, single family residential parcels, and is also intended to address the State's ADU provisions as set forth in Government Code Section 65852.1 et seq. ADUs are commonly referred to as second units, in-law-units, and accessory-apartments, and contribute needed housing to the City's housing stock.

2. Administrative Use Permit Required. Except as set forth in this section 35.320, all ADUs are subject to administrative use permit requirements as set forth in Chapter 50 of the Zoning Ordinance. The Planning Director shall issue an administrative use permit to ADUs in compliance with this section 35.320. No public hearing or any additional permit shall be required of applicants seeking an administrative use permit for an ADU under this section.

3. Definitions.

A. *Accessory Dwelling Unit (ADU)*. An ADU shall consist of complete independent living facilities for one or more persons including permanent provisions for sleeping, living, eating, cooking, and sanitation. An ADU shall have a separate exterior entrance. An efficiency unit as defined in Health and Safety Code section 17958.1 and a manufactured home as defined in Health and Safety Code section 18007 are considered ADUs.

B. *Living Area*. Living area includes the interior habitable area of a dwelling unit including basements and attics, but does not include a garage or any accessory structure.

4. Lot Requirements. ADUs are allowed in single family residential zoning districts where there is exactly one single family residence on the parcel, and in other districts where there is exactly one conforming single family residence on the parcel. A maximum of one ADU is allowed on a lot. No Administrative Use Permit will be issued for an ADU unless and until the City receives the following:

A. Proof of owner occupancy of either the single family residence or of the ADU;

B. A copy of a recorded deed restriction that complies with Government Code section 27281.5 and states that (i) owner occupancy of the single family residence or ADU is required by this Chapter, and (ii) the ADU will not be sold separately from the single family residence; and

C. Any fees for Multi-Family units required by the City's Master Fee Schedule (excluding ADUs within existing living spaces) as it exists at the time the ADU application is filed. All fees are subject to the requirements of Government Code 65852.2 and the Mitigation Fee Act.

5. Development Standards.

A. *ADUs within existing space.* An ADU within an existing residential space, including the primary structure, attached or detached garage, or other accessory structure existing on January 1, 2017 shall not require an administrative use permit pursuant to this section, and shall instead only be subject to building permit requirements, only if the following requirements are met:

- (i) The ADU meets all applicable building and safety codes.
- (ii) The ADU has independent exterior access from the existing residence.
- (iii) The ADU has sufficient side and rear setbacks for fire safety.

An ADU created under this section 5.A may, but is not required to, create new or separate utility or sewer connections.

B. *Attached ADUs.* ADUs attached to an existing dwelling shall not exceed the lesser of fifty percent (50%) of the existing living area or 1200 square feet. Attached ADUs shall meet all applicable building code requirements. For ADUs constructed above an existing garage, the City shall not impose any setback requirements from the side and rear lot lines that exceed five (5) feet. An ADU created under this section 5.B may, but is not required to, create new or separate utility connections. Separate sewer connections may be required at the discretion of the City Engineer.

C. *Detached ADUs.* ADUs not attached to an existing dwelling shall meet all applicable building code requirements, shall not exceed the lesser of 50% of the existing living area or 1200 square feet, and shall conform to the applicable standards and requirements of the zoning district in which it is located, including height and setback requirements. An ADU created under this section 5.C may, but is not required to, create new or separate utility connections. Separate sewer connections may be required at the discretion of the City Engineer.

6. Design Standards. To the extent feasible, an ADU must conform to the design characteristics of the existing single family residence, including but not limited to architectural and landscaping features, building materials, and paint color.

7. Fire Sprinklers. ADUs shall comply with all applicable fire safety provisions of state law, as well as locally adopted building and fire codes. If the existing residence contains fire sprinklers or would be required to contain fire sprinklers if constructed at the time of the ADU application, then sprinkler installation is also required for the ADU.

8. Parking. A minimum of one off-street parking space shall be provided for each ADU in addition to the offstreet parking spaces required for the existing residence ADU parking spaces may be provided as tandem parking, including on an existing driveway or in paved setback areas, excluding the non-driveway front yard setback. Parking requirements shall be waived if the ADU is located: (i) within one-half (1/2) mile of a public transit stop; (ii) in a designated historic district; (iii) in part of an existing primary residence or an existing accessory structure pursuant

to subsection 5.A above; (iv) in an area requiring on-street parking permits not offered to the ADU occupant; or (v) within one block of a car-sharing pickup/drop-off location.

9. Replacement Parking. When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an ADU, replacement parking shall be required and may be located in any configuration on the same lot as the ADU.

60.200 Definitions.

Accessory Dwelling Unit (ADU). An ADU is defined in section 35.325 of this Zoning Ordinance.

Second Residential Unit. As used in this Zoning Ordinance, Second Residential Unit means an Accessory Dwelling Unit.