

ORDINANCE NO. 522

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERCULES AMENDING TITLE 13, CHAPTER 44 AND PORTIONS OF CHAPTERS 42, 46, AND 48-52, OF THE HERCULES MUNICIPAL CODE RELATING TO PLANNING AND ZONING APPEALS PROCEDURES

WHEREAS, on September 25, 2018, January 8, 2019, and January 22, 2019, the City Council of the City of Hercules discussed the current Council call up procedure for planning and zoning matters; and

WHEREAS, according to Zoning Ordinance Section 13-52.200, the City Council has the authority to request the Planning Commission to consider an amendment to the Zoning Ordinance at a public hearing; and

WHEREAS, at the January 22, 2019 Regular Council Meeting, the City Council provided a framework for changes to the Council call up procedure they would like incorporated into the Zoning Ordinance and directed staff to prepare certain clarifying language to be less confusing and give sufficient time for the Council to decide if a call up is needed; and

WHEREAS, according to Zoning Ordinance Section 13-52.200, the City Council has the authority to request the Planning Commission to consider amendments to the Zoning Ordinance pursuant to a noticed public hearing; and

WHEREAS, the Planning Commission held a noticed public hearing on March 18, 2019 to consider Council's direction to modify the Appeal provisions of the Zoning Ordinance requiring Zoning Text Amendment #ZTA 19-02, and did hear and use its independent judgment to consider all said reports, recommendations, and testimony presented and adopted Resolution #19-02 recommending that the City Council consider approving #ZTA 19-02; and

WHEREAS, the City Council on April 9, 2019 convened a public hearing to consider Zoning Text Amendment #ZTA 19-02 as recommended by the Planning Commission, and, having heard all said reports, recommendations, and testimony, exercised its independent judgment to waive the first reading and approve introduction of this Ordinance; and

WHEREAS, it can be seen with certainty that there is no possibility that the Project may have a significant effect on the environment and is thus categorically exempt from the California Environmental Quality Act ("CEQA") [State CEQA Guidelines Section 15061(b)(3)].

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HERCULES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1.

Portions of Title 13 of the Hercules Municipal Code entitled "ZONING ORDINANCE" are hereby amended to read as follows:

"TITLE 13. ZONING ORDINANCE

Chapter 13-44. Hearings, Appeals and Judicial Review

Sec. 13-44.400 Notice of Decision.

The Community Development Director shall prepare a notice of decision for actions on zoning applications by the Community Development Director, Planning Commission and City Council. The decision shall include findings, any conditions of approval (including date of effect) as needed to mitigate any impacts and protect the health, safety and welfare of the community, and the appeal period allowed by the Zoning Ordinance. The notice of decision shall be posted within a public area of City Hall and mailed by the Community Development Director to the applicant at the address on the application within 10 working 14 calendar days of the decision.

Sec. 13-44.500 Review by Council.

The Council, through majority vote, may call up for review any decision of the Community Development Director or Planning Commission. The determination to call up for review shall be made by the Council at the meeting at which the notice of decision is presented to it, at its next regular meeting following the posting of the notice of decision pursuant to Section 13-44.400, unless that meeting would be within 2 calendar days of the posting of the notice, in which case the Council may make the determination to call up for review at the second regular meeting following posting of the notice. And tThe Council shall specify the issues to be reviewed when it determines to call an item up for review. The Council shall hear and determine a decision that is called up for review in the same manner as an appeal hearing.

Sec. 13-44.600 Filing of Appeals.

Any discretionary decision made by the Community Development Director where such decision is not designated as final by the Zoning Ordinance may be appealed to the Planning Commission by the applicant or any person affected by a determination or decision. An appeal requires filing a written appeal with the Community Development Director within ~~10 working~~ 14 calendar days of the mailing or posting of the notice of decision.

Any determination or decision made by the Planning Commission may be appealed to the City Council by the applicant or any person affected by a determination or decision. An appeal requires filing a written appeal with Community Development Director within ~~10 working~~ 14 calendar days of the mailing or posting of the notice of decision.

The written appeal shall include the name and address of the person filing the appeal, the decision that is being appealed, a description of the grounds upon which the appeal is based, and applicable filing fees.

Chapter 13-42. Design Review - Sec. 13-42.600 Hearings and Appeals.

The procedures for hearings and appeals are specified in Chapter 13-44, Hearings, Appeals and Judicial Review. ~~The Council may call up for review any design review decision of the Planning Commission. The determination to call up for review shall be made by the Council at the meeting where the notice of decision is presented to it. If a design review decision is called up for review by the Council, the Council shall hear and determine the matter in the same manner as an appeal. [Ord. 515 § 2, 2018; ZO § 42.600.]~~

Chapter 13-45. Minor Exceptions - Sec. 13-45.500 Hearings and Appeals.

The Community Development Director shall make a determination regarding a minor exception application within ~~10 working~~ 14 calendar days of notification to the applicant that the application is complete. A public hearing is not required for a minor exception unless an appeal is filed. The procedures for appeals and subsequent hearings are as per Chapter 13-44, Hearings, and Appeals and Judicial Review.

Chapter 13-46. Minor Modifications - Sec. 13-46.400 Hearings and Appeals.

The Community Development Director shall make a determination regarding a minor modification application within ~~10 working~~ 14 calendar days of notification to the applicant that the application is complete. A public hearing is not required for a minor modification unless an appeal is filed. The procedures for appeals and subsequent hearings are as per Chapter 13-44, Hearings, Appeals and Judicial Review ~~and Appeals~~.

Chapter 13-48. Planned Development Plans - Sec. 13-48.700 Hearings and Appeals.

The procedures for hearings and appeals are as per Chapter 13-44, Hearings, Appeals and Judicial Review.

A planned development plan application along with the Community Development Director's report shall be submitted to the Planning Commission for review. The Planning Commission shall forward its recommendation to the City Council for final action.

If the planned development plan includes a proposed subdivision, the proceedings for the review of the tentative subdivision map may be undertaken concurrently with the proceedings with respect to the planned development plan.

Chapter 13-49. Specific Plans - Sec. 13-49.400 Hearings, Adoption and Appeals.

A specific plan shall be reviewed and adopted in the same manner as a general plan, except that a specific plan may be adopted by resolution or by ordinance. No specific plan may be adopted unless the proposed plan is consistent with the General Plan. The procedures for hearings and appeals are as per Chapter 13-44, Hearings, Appeals and Judicial Review.

Chapter 13-50. Use Permits - Sec. 13-50.400 Hearings and Appeals.

The procedures for hearings and appeals are as per Chapter 13-44, Hearings, Appeals and Judicial Review. ~~The City Council may call up for review by it any action of the Community Development Director or Planning Commission in granting or denying a use permit. The determination to call up for review shall be made by the Council at the meeting at which the notice of decision is presented to it. If a decision is called up for review by the City Council, the City Council shall hear and determine the matter according to the required findings of this Chapter in the same manner as an appeal.~~

Chapter 13-51. Variances - Sec. 13-51.500 Hearings and Appeals.

The procedures for hearings and appeals are as per Chapter 13-44, Hearings, Appeals and Judicial Review. ~~The City Council may call up for review by it any action of the Planning Commission in granting or denying a variance. The determination to call up for review shall be made by the City Council at the meeting at which the notice of decision is presented to it. If a decision is called up for review by the City Council, the City Council shall hear and determine the matter in the same manner as an appeal.~~ [Ord. 515 § 2, 2018; ZO § 51.500.]

Chapter 13-52. Zoning Amendments - Sec. 13-52.500 Hearings and Appeals.

The procedures for hearings and appeals are as per Chapter 13-44, Hearings, Appeals and Judicial Review."

SECTION 2 – CEQA.

The adoption Zone Text Amendment #ZTA 19-02 is categorically exempt from the California Environmental Quality Act ("CEQA") [State CEQA Guidelines Section 15061(b)(3)]

SECTION 3 – SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be deleted.

SECTION 4. Publication and Effective Date.

a. This Ordinance shall be published in accordance with applicable law, by one or more of the following methods:

1. Posting the entire Ordinance in at least three (3) public places in the City of Hercules, within fifteen (15) days after its passage and adoption; or
2. Publishing the entire Ordinance at least once in the West County Times, a newspaper of general circulation published in the County of Contra Costa and circulated in the City of Hercules, within fifteen (15) days after its passage and adoption; or
3. Publishing a summary of the Ordinance in the West County Times and posting a certified copy of the entire Ordinance in the office of the City Clerk at least five (5) days prior to the passage and adoption, and a second time within fifteen (15) days after its passage and adoption, along with the names of those City Councilmembers voting for and against the Ordinance.

b. This Ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Hercules City Council on the 9th day of April, 2019, and was passed and adopted at a regular meeting of the Hercules City Council on the 23rd day of April, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dan Romero, Mayor

Lori Martin, Administrative Services Director &
City Clerk