



## Legislation Text

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**File #:** 2019-1033, **Version:** 1

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**To:** Sonoma County Board of Supervisors

**Department or Agency Name(s):** Permit and Resource Management Department

**Staff Name and Phone Number:** Doug Bush 707 565-5276

**Vote Requirement:** Majority

**Supervisory District(s):** Countywide

**Title:**

1:45 PM -Ordinance amending Sonoma County Code § 26-88-060 (accessory dwelling units) and amending the Official Zoning Database to remove the "Z" Accessory Dwelling Unit Exclusion Combining District from specified parcels in the LIA, LEA, and DA zoning districts. ZCE18-0001

**Recommended Action:**

Hold a public hearing. After the public hearing is closed, find that the proposal is exempt from CEQA and adopt an ordinance amending Sonoma County Code Section 26-88-060 to add standards for accessory dwelling units and amending the Official Zoning Database (OZD) to either:

- A) Remove the "Z" Accessory Dwelling Unit Exclusion Combining District from 1,377 specified parcels located in LIA, LEA, and DA zoning districts that are under 10 acres in size and meet the identified screening criteria; or
- B) Remove the "Z" Accessory Dwelling Unit Exclusion Combining District from 1,924 specified parcels located in LIA, LEA, and DA zoning districts, including parcels over 10 acres in size, that meet the identified screening criteria.

Planning Commission recommendation: Adopt the proposed amendments to Sonoma County Code Section 26-88-060 and amend the OZD to remove the "Z" Combining District from 1,924 specified parcels located in LIA, LEA, and DA zoning districts, including parcels over 10 acres in size, that meet identified screening criteria (option B, above).

**Executive Summary:**

This project would achieve General Plan Housing Element objectives by eliminating unneeded regulatory constraints and promoting the production of affordable housing, while continuing to protect and support agricultural and environmental resources. The County has taken many measures to facilitate the creation of Accessory Dwelling Units (ADUs) as one form of affordable housing. This proposal would work toward meeting housing element objectives and facilitate the creation of ADUs by implementing Housing Element Policy HE-3c, which directs that the Board will "Review Z Combining District restrictions on agricultural parcels of less than 10 acres county-wide, and consider removing the restrictions where appropriate."

To implement Policy HE-3c, staff developed a site-specific evaluation framework with screening criteria to determine where removing the Z District would be appropriate. A total of 1,377 parcels under 10 acres in size meet these criteria. In addition, staff developed recommended zoning ordinance text amendments that would reduce potential impacts associated with ADU development and would apply countywide.

The Planning Commission reviewed the proposed ordinance on May 2, 2019, and adopted Resolution 19-004, recommending that the Board of Supervisors adopt the proposed ordinance amending countywide ADU standards. However, by a 3-2 vote the Commission recommended removing the Z District from 1,924 parcels, which number represents all agriculturally zoned parcels subject to the Z combining district, including those 10 acres and larger, that meet the staff-identified screening criteria. The commissioners who voted in favor of removing the Z district from parcels over 10 acres cited the desire to further support the creation of affordable housing. Accordingly, staff has prepared two alternative draft resolutions for your Board's consideration—one removing the Z District from parcels under 10 acres in applicable zones as directed by Housing Element Policy HE-3c, and one removing the Z District from all eligible parcels per Planning Commission recommendation.

**Background:**

The Z (Accessory Dwelling Unit Exclusion) Combining District ("Z District") implemented the 1989 General Plan and was originally created to preclude ADUs from constrained parcels. The 1989 General Plan established policies prioritizing agricultural resource preservation and created agricultural housing types exempt from density limits to create housing options in agricultural areas that complement agricultural activities.

The Z District was applied on certain agricultural parcels to override the base zoning districts' land use permissions that allow property owners to construct an ADU on parcels that may be eligible for agricultural housing types. Since the 1989 General Plan was adopted, the County has learned that larger agriculturally zoned parcels may meet eligibility criteria to construct farm-related housing units, but smaller agricultural parcels do not typically meet the criteria for these units (e.g. 1 agricultural employee unit for each 20 acres of vineyards) but could otherwise support an ADU.

The General Plan Housing Element includes policies directing the County to "eliminate unneeded regulatory constraints" to affordable housing and "increase opportunities for the production of affordable housing," (Objective HE3.1 and 3.3 respectively). Specific to the Z District, the County's 2015-2023 Housing Element included Policy HE-3c, to "Review Z Combining District restrictions on agricultural parcels of less than 10 acres county-wide, and consider removing the restrictions where appropriate."

The intent of this proposal is to remove the Z combining district restriction from parcels where the units can be supported on agricultural parcels while limiting impacts on agricultural production. Rezoning a parcel to remove the Z restriction allows a property owner to apply to construct an ADU in a zone where an ADU is otherwise permitted. Site-specific ADU proposals will be reviewed by Permit Sonoma for compliance with the objective standards of the ADU ordinance (County Code section 26-88-060) when an ADU application is submitted.

**Discussion:**

ADUs are a permitted use-subject to applicable development standards-in all agricultural districts except where the Z Combining District is applied or where a Land Conservation (Williamson Act) contract is in place. In total, the Z District applies to 3,985 parcels with agricultural zoning (LEA, LIA, and DA) throughout the County. Staff developed a site-specific evaluation framework to determine where removing the Z District would be appropriate as directed by Housing Element Policy HE-3c. The framework includes the following criteria:

- the property is not located within a high or very high fire hazard severity zone;
- the property is not within a critical biotic habitat area for the California Tiger Salamander;
- an ADU on the parcel does not present the potential for groundwater contamination;
- an ADU on the parcel will not unduly contribute to declining groundwater levels;
- the property is not located in a Traffic Sensitive Combining Zone;
- the property is not subject to a Land Conservation (Williamson Act) or other open space contract, or other recorded agricultural easements; and
- the property is not located in the Coastal Zone.

Staff identified 1,924 agriculturally zoned parcels that qualify for Z District removal pursuant to these criteria. 1,377 of these parcels are under 10 acres, as provided by Policy HE-3c.

In analyzing the implications of Z District removal, staff also developed amendments to ADU policy that will help to ensure ADU compatibility and reduce potential impacts associated with ADUs in the County:

- To reduce the potential that non-farming residences (ADUs) might result in over-development of agricultural parcels, the proposed ordinance amendment includes a provision that an ADU on an agricultural parcel would count as one of the eligible agricultural housing units on a property. While the ADU would not be limited to occupancy by an agricultural employee or farm family member, as agricultural housing units are, this amendment would allow both an ADU and agricultural housing units on a qualifying property, but would limit the total number of density-exempt housing units on a parcel so that the parcel would not exceed the maximum number of units already potentially allowed by the general plan and zoning code.
- The proposed ordinance amendment includes a new objective groundwater use standard to reduce the potential for negative impacts associated with ADU construction county-wide. The standard provides that applications for ADUs meet Permit Sonoma's Zero Net Water Guidelines in critical habitat areas where depleted streamflow threatens the recovery of endangered salmonids. These critical habitat areas are informed by Recovery Plans prepared by the National Marine Fisheries Service.

#### **Planning Commission Discussion:**

This item was brought before the Planning Commission at a May 2, 2019 public hearing. During the hearing several questions were raised regarding the use of ADUs as vacation rentals, ADU housing supply characteristics, whether rezoning would equate to ADU approval, ADU feasibility and development factors, agricultural preservation and compatibility and consistency with city-centered growth policies. Staff's responses to these topics are included below. Draft minutes from the May 2 meeting are provided as Attachment 5.

Vacation Rentals. In response to questions regarding the potential use of ADUs as short term rentals, staff clarified that the existing ADU ordinance provides that ADUs may not be used as hosted or vacation rentals

and may not be rented for less than 30 days.

**Affordability and ADU Housing Characteristics.** The County surveys property owners with ADUs periodically. A 2018 survey conducted by the County, of property owners with ADUs found that a majority of ADUs are offered at below-market rates that are affordable to moderate income households in Sonoma (ex. a 4-person moderate income household earns \$100,900.) As a result, the Housing Element and the State Department of Housing and Community Development recognize that ADUs contribute to Sonoma County's affordable housing stock at or below the "moderate" affordability level. Below is a summary of results from the 2018 survey regarding affordability, size of units and occupancy characteristics of the respondents. The survey was mailed to 928 recipients, of which 116 responded.

#### Occupancy

- 86 of the 116 respondents (74%) said their units are currently occupied as residences
- Of the units that are occupied as residences, 50 out of 86 (58%) are occupied by family members
- 32 of 86 (37%) are occupied by an unrelated rental tenant

#### Size of units

- 11 studios
- 57 one-bedroom units
- 40 two-bedroom units
- 1 three-bedroom unit

#### Average rent

- Rent is not charged for 15 of the 86 units that are occupied as residences (13%)
- For those who charge rent, the average rent charged is \$1,568

#### Income levels

Of the 70 respondents that reported income of the occupants of ADUs:

- 23 (33%) were reported to be occupied by households with an income of less than \$30,000
- 19 (27%) were reported to be occupied by households with an income between \$30,000 and \$48,000
- 13 (19%) were reported to be occupied by households with an income between \$48,000 and \$72,000
- 15 (21%) were reported to be occupied by households with an income of more than \$72,000

**ADU Feasibility and Development Factors.** Creating ADUs on any property depends on several factors including site characteristics, building and permitting costs and the ability to meet applicable standards. This project

does not identify parcels where ADUs will be constructed. Instead, the Z District removal identifies sites where the original purpose of the Z District may no longer serve a meaningful function and where the potential for ADU construction is consistent with the General Plan. Properties identified for rezoning by the proposed ordinance may not ultimately qualify for an ADU because site-specific issues may result in the parcel not meeting the minimum standards set forth in the zoning code.

To construct an ADU once the Z Combining District is removed, property owners will need to submit an ADU permit that can only be approved if all ADU standards in Section 26-88-060 of the Zoning Code are met. These standards include having reliable water availability, septic capacity and demonstrating compliance with required setbacks. Minimum parcel sizes, which relate to a site's water and sewer service capacity, are also included in the standards.

An ADU must also meet the requirements of all applicable zoning districts. As shown in the map viewer tool (<http://tiny.cc/zremoval>) many properties may be affected by the Riparian Corridor Combining District or floodplain construction requirements that may reduce the area of usable land and may increase the cost of creating a unit. These factors, combined with the minimum parcel size standards and other objective standards in the Zoning Code discussed above, may significantly reduce the number of rezoned parcels that qualify for an ADU.

Staff estimates that between 40% and 50% of the parcels recommended for rezoning may not be eligible for an ADU based on these standards. This estimate is based on a general review of parcels countywide (referencing property size and mapped resource and regulatory restrictions), not site-specific analysis. While multiple properties within the proposed Z District removal area may not ultimately be eligible for an ADU, that determination can only be made with an individual ADU application and site-specific evaluation.

City Centered Growth. The question was raised at the hearing of whether allowing ADUs in agricultural zones constitutes "urban sprawl" and whether it is consistent with city- and community-centered growth policies of the General Plan. General Plan Goal LU-2 is to "accommodate the major share of future growth within the nine existing cities and their expansion areas and within selected unincorporated communities, which are planned to have adequate water and sewer capacities." The County continues to focus growth primarily within Urban Service Areas, while also recognizing that the addition of ADUs in rural areas can provide new, more affordable housing opportunities in a time of significant need. ADUs constitute only a portion of total growth and are consistent with this goal.

Z Removal on Parcels Over 10 acres. Following the direction provided in Housing Element Policy HE-3c, staff recommended that the Planning Commission support Z removal on parcels under 10 acres that meet the identified screening criteria. The Planning Commission deliberated and passed Resolution 19-004 (Attachment 3) on a 3-2 vote, recommending removal of the Z from all qualifying parcels without regard to size. The Commission made the following findings in support of their recommendation:

- The existing "right-to-farm ordinance" limits any significant concerns over potential impacts to agricultural operations from residential tenant, because it prevents nuisance complaints associated with typical farming activities;
- The risk of conflict between residential and agricultural uses is reduced on larger parcels because such parcels typically have larger setbacks;
- The proposed zoning text amendment that would limit the total number of density exempt housing

units allowed per lot adequately addresses concerns about over-development of residential uses, because it maintains the same maximum number of units that could be permitted under existing policies;

- ADUs in rural zones help support small farms by providing supplemental income for farm families; and
- ADUs in rural zones may reduce commute times and associated traffic and pollution by providing affordable housing near rural jobs.

## **Options**

### Option 1

Rezone eligible parcels under 10 acres (1,377 parcels) to remove the Z Combining District, and amend the zoning ordinance to:

- a. require no net increase in groundwater use where necessary to protect groundwater dependent ecosystems,
- b. clarify when a property may be eligible for both an agricultural dwelling and an accessory dwelling unit

### Option 2 (Planning Commission Recommendation)

Rezone all eligible parcels regardless of size (1,924 parcels) to remove the Z Combining District to further support the creation of affordable housing. This option reflects the recommendation of the Commission and includes the zoning ordinance amendments as described in option 1.

A draft ordinance for each option is included in the attachments. See the attached Planning Commission staff report for additional information and a discussion of these policy options.

## **Prior Board Actions:**

2014, the County Board of Supervisors approved the 2014 Housing Element which includes policy HE-3c to consider removing the Z Combining District from agricultural parcels of less than 10 acres in size, where appropriate.

## **FISCAL SUMMARY**

### **Narrative Explanation of Fiscal Impacts:**

Not applicable.

### **Narrative Explanation of Staffing Impacts (If Required):**

Not applicable.

## **Attachments:**

Attachment 1 Draft Ordinance - Option 1

Attachment 1, EX A Parcel List

Attachment 1, EX B Zoning Text Amendment

Attachment 2 Draft Ordinance - Option 2

Attachment 2, EX A Parcel List

Attachment 2, EX B Zoning Text Amendment

Attachment 3 Planning Commission Resolution

Attachment 4 Planning Commission Staff Report and Attachments dated May 2, 2019

Attachment 5 DRAFT Planning Commission Minutes dated May 2, 2019

Attachment 6 Public Comment

**Related Items “On File” with the Clerk of the Board:**

Not applicable.