



Planning Commission Staff Report - Hearing on April 4, 2024

County of Ventura • Resource Management Agency

800 S. Victoria Avenue, Ventura, CA 93009-1740 • (805) 654-2478 • www.vcrma.org/divisions/planning

SUBJECT: Public Hearing to Consider County-Initiated Amendments to Article 7 of the Ventura County Non-Coastal Zoning Ordinance to Amend Regulations for Accessory Dwelling Units and Junior Accessory Dwelling Units Consistent with Government Code Sections 65852.2 and 65852.22; and to Consider a Finding that the Project is Exempt from the California Environmental Quality Act Pursuant to Public Resources Code Section 21080.17 (PL24-0014).

A. PROJECT INFORMATION

1. Applicant:

County of Ventura, 800 S. Victoria Avenue, Ventura, California, 93009.

2. Location:

The proposed amendments to the Ventura County Non-Coastal Zoning Ordinance (NCZO) relating to accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) would apply to non-coastal parcels in the unincorporated county, as specified in the proposed ordinance (Exhibit 5), zoned: Single-Family Residential (R1); Two-Family Residential (R2); Residential (RES); Residential Planned Development (RPD); Residential Mixed Use (R/MU); Residential High Density (RHD); Rural Agricultural (RA); Rural Exclusive (RE); Single-Family Estate (RO); Commercial Planned Development within a Community Business District overlay zone (CPD/CBD); Open Space (OS); Agricultural Exclusive (AE); and Timberland Preserve (TP). See Exhibit 2 for location maps showing applicable areas for ADUs and JADUs.

3. Request:

Planning Division staff requests that your Commission review this staff report and its attachments and adopt a resolution (Exhibit 3) recommending that the Board of Supervisors (Board) adopt the staff recommended actions stated in Section F of this report, which include approval of the proposed text amendments to the NCZO to amend regulations for ADUs and JADUs ("Proposed Ordinance") (Exhibit 5); and find that the adoption of the Proposed Ordinance is exempt from CEQA review pursuant to Public Resources Code section 21080.17.

4. Review/Decision-Making Authority:

Under the NCZO and state law, your Commission is required to review, conduct a public hearing on, consider and make recommendations to the Board regarding the Proposed Ordinance. The Board, at a subsequent public hearing, will consider your Commission's recommendations and decide whether to adopt, not adopt or adopt with modifications the Proposed Ordinance.

5. Background:

The Legislature has declared that California faces a severe housing crisis and is failing to meet housing demands, particularly for lower and middle-income earners (Gov. Code, § 65852.150, subdivisions (a)(5) and (a)(6)). Lack of housing has caused increased housing costs, particularly for renters. To increase housing development, several laws have been passed to increase the availability of ADUs and JADUs, which are *“an essential component of California's housing supply.”* (Gov. Code, § 65852.150(a)(8), emphasis added.) ADUs typically cost less to construct than other types of housing, largely because they do not require paying for land or certain major new infrastructure. Additionally, ADUs *“provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below-market prices within existing neighborhoods.”* (Gov. Code, §65852.150(a)(2), emphasis added.) The County's 2021-2029 Housing Element identifies ADUs as an integral housing type for meeting the County's Regional Housing Needs Allocation (RHNA) for lower-income housing units and assumes that about 44 percent (i.e., 560 units) of the overall RHNA for the 6th cycle will be addressed by the development of ADUs and JADUs in the unincorporated county.

An ordinance amending the regulations for ADUs and JADUs in the non-coastal areas of the County was adopted by the Board on February 7, 2023 (Ordinance No. 4615, or “2023 ADU Ordinance”, Exhibit 6). Thereafter, in accordance with Government Code section 65852.2(h), the 2023 ADU Ordinance was submitted to the Department of Housing and Community Development (HCD) on April 5, 2023 through HCD's online portal for its review and certification.

HCD responded with a comment letter dated September 5, 2023 (Exhibit 7), which requested ten revisions to the 2023 ADU Ordinance in accordance with HCD's current interpretation of Government Code sections 65852.2 and 65852.22 (the “ADU law”, Exhibit 8). As required statutorily, the Planning Division sent a response to HCD within 30 days of receiving the comment letter on September 28, 2023, requesting a meeting with HCD staff to clarify the comments. Planning Division staff met with HCD staff on October 11, 2023, to discuss HCD's findings; staff explained the structure of the 2023 ADU Ordinance and why certain revisions requested by HCD were not necessary or appropriate. During this meeting, HCD staff agreed with several of the Planning Division's recommendations. As a result, in December 2023, after reviewing the comments thoroughly, the Planning Division responded to HCD agreeing to revise the ADU ordinance to reflect four of HCD's comments (from the ten suggested revisions included in the HCD comment letter dated September 5, 2023). HCD staff concurred with this response by email in January 2024, and the four comments from HCD are addressed in the Proposed Ordinance.

This ADU ordinance review and certification process conducted by HCD with the County appears consistent with its review of many other jurisdictions in the state. Based on staff's review of HCD's ADU ordinance review letters, which HCD posts on its ADU webpage, it seems typical for HCD to not certify a jurisdiction's adopted ADU ordinance in its first review of the ordinance, and to provide the jurisdiction with a list of findings instead.

Please note that, notwithstanding the requested revisions from HCD, the County is surpassing its ADU/JADU production goals of 70 ADU/JADUs per year identified in the 2021-2029 Housing Element sites inventory (based on the 560 of the 1,262 units of the County's RHNA identified to be addressed by ADUs and JADUs)¹. The County's 2023 State Mandated Annual Progress Report presented to the Board on March 26, 2024² indicated that a total of 170 ADUs and JADUs received building permits in calendar year 2023 alone. This brings the total number of ADUs produced so far for the 6th RHNA cycle to 278 units (from October 16, 2021 through December 31, 2023), which is equivalent to approximately 50 percent of the County's ADU target for the entire 2021-2029 planning period. This illustrates the County's support in producing ADUs and meeting the County's RHNA allocation for lower-income units.

In addition to HCD-recommended revisions, on October 11, 2023, the Governor signed three new bills into law (Assembly Bills 976, 1033, and 1332), some of which require additional amendments to the 2023 ADU Ordinance. Exhibit 8 includes the currently applicable ADU and JADU laws, effective January 1, 2024. Revisions from the effective legislation are also integrated into the Proposed Ordinance amendment.

6. Summary of Proposed Amendments to the NCZO:

The 2023 ADU Ordinance addresses the requirements of the ADU law in the following three sections:

- **Section 8017-1.7.4** governs ADUs and JADUs that must be ministerially approved with a building permit pursuant to Government Code section 65852.2(e) ("Building Permit ADUs and JADUs"). Building Permit ADUs and JADUs approved under this section are not subject to the development standards in Section 8107-1.7.5.
- **Section 8107-1.7.5** governs ADUs that do not qualify as Building Permit ADUs. Unlike Building Permit ADUs, these ADUs are approved ministerially with a Zoning Clearance and are subject to the development standards set forth in Section 8107-1.7.5.
- **Section 8107-1.7.6** addresses specific requirements for JADUs, consistent with the requirements of Government Code section 65852.22. JADUs that meet the applicable criteria are approved ministerially with a building permit.

As discussed in more detail below, the Proposed Ordinance includes various amendments to Section 8107-1.7 including revisions recommended by HCD during its review, revisions to address new state law provisions effective January 1, 2024, and certain revisions recommended by staff to clarify and facilitate consistent implementation of the new ADU regulations.

¹ Background Report for the Ventura County 2040 General Plan, Chapter 5. Housing, Table 5-41: Housing Inventory Summary for Lower, Moderate and Above-Moderate Income Categories.

² 2023 State-Mandated Annual Progress Report, presented to the County of Ventura Board of Supervisors, March 26, 2024: <https://ventura.primegov.com/portal/item?id=266382>

a) Revisions pursuant to HCD recommendations and revised state law provisions:

(i) HCD-recommended Revisions to Section 8107-1.7.4 – ADUs Allowed by Building Permit

Currently, subsections (a) through (d) within Section 8107-1.7.4 implement the statutorily mandated approval of Building Permit ADUs and JADUs. Sections 8107-1.7.4(a) and (b) apply to lots in residential and mixed-use zones with a proposed or existing single-family dwelling, whereas Sections 8107-1.7.4(c) and (d) apply to lots with existing multifamily dwellings. The following revisions address HCD's comments to Section 8107-1.7.4.

Number of Building Permit ADUs allowed on residential or mixed-use lots with a proposed or existing single-family dwelling:

The County's ADU regulations currently limit the number of allowable Building Permit ADUs on a lot with a proposed or existing single-family dwelling to one ADU and one JADU. Pursuant to Section 8107.1.7.4, the ADU may either be created from converting existing or proposed space within the single-family dwelling, *or* created as a detached, new construction ADU provided it meets certain criteria.

In its September 5, 2023 comment letter, HCD explained that the use of the term "any" followed by an enumeration of by-right ADU types in Government Code section 65852.2(e)(1) means that an ADU created from converting space may be combined with a detached, new construction ADU on a residential or mixed-use lot that is zoned for single-family dwellings. (Exhibit 7, page 2.) According to HCD, this allows a property owner, whose lot meets specified requirements, to create: one ADU from within the existing or proposed space of a single-family dwelling or accessory structure; one detached, new construction ADU; and one JADU. HCD commented that limiting single-family lots to one ADU would prevent property owners from creating ADUs by right under subdivision (e)(1) and that the County must revise the 2023 ADU Ordinance to remove this restriction.

Corresponding Revision in Proposed Ordinance:

Planning Division staff concurs with HCD's interpretation of Government Code section 65852.2(e) and, therefore, recommends amending Section 8107-1.7.4 subsections (a) and (b) to allow up to two Building Permit ADUs (a combination of one ADU pursuant to subsection (a) and one ADU pursuant to subsection (b)) on eligible lots with an existing or proposed single-family dwelling.

Staff also proposes to revise Sections 8107-1.7.4 and 8107-1.7.5 to allow one Building Permit ADU pursuant to either subsection (a) or (b) of Section 8107-1.7.4 to be combined with one Zoning Clearance ADU pursuant to Section 8107-1.7.5 on an eligible residential or mixed-use lot. Although these revisions were not requested by HCD and are not mandated by state law, staff recommends these revisions to facilitate consistent implementation of the new rules in residential and mixed-use zones, giving property owners more options to

develop multiple ADUs. This revision is discussed in Section A.6, subsection (b) of the report below.

Therefore, the Proposed Ordinance amends Sections 8107-1.7.4(a) and 8107-1.7.4(b) to allow a property owner of a lot with a proposed or existing single-family dwelling in a residential or mixed-use zone to develop their lot with up to two ADUs on an eligible lot, in any of the following combinations (in addition to one JADU), provided they meet specified criteria:

- One ADU created pursuant to Section 8107-1.7.4(a) and one ADU created pursuant to Section 8107-1.7.4(b) (i.e., One Building Permit ADU created by converting existing space within the single-family dwelling or an accessory structure, and one detached new construction Building Permit ADU); or
- One Building Permit ADU created pursuant to Section 8107-1.7.4 (a) and one ADU created with a Zoning Clearance pursuant to Section 8107-1.7.5; or
- One Building Permit ADU pursuant to Section 8107-1.7.4 (b) and one ADU created with a Zoning Clearance pursuant to Section 8107-1.7.5.

In any of the combinations, no more than two ADUs would be permitted on any lot with a proposed or existing single-family dwelling in a residential or mixed-use zone (in addition to an eligible JADU). Only one ADU with a Zoning Clearance would continue to be allowed on lots within the AE, OS and TP zones pursuant to Section 8107-1.7.5 as they are not residential or mixed-use zones. Revisions to Section 8107-1.7.5 are explained further in Section A.6, subsection (b) below.

Detachment requirement for ADUs on lots with multifamily structures:

Section 8107-1.7.4(d)(5) currently states that detached ADUs on lots with an existing or proposed multifamily dwelling “*must be detached from the existing or proposed multifamily dwelling and from other accessory structures.*”

However, HCD indicated that Government Code section 65852.2(e)(1)(D) only requires that such units are “*detached from that multifamily dwelling....*” and does not require that the ADU be detached from other accessory structures. HCD commented that Section 8107-1.7.4(d)(5) is more stringent than the ADU Law, therefore, the County must remove the phrase “and from other accessory structures.”

Corresponding Revision in Proposed Ordinance:

Planning Division staff concurs with HCD’s comment and has revised Section 8107-1.7.4(d)(5) accordingly in the Proposed Ordinance.

(ii) HCD-recommended Revisions to Section 8107-1.7.6 – JADU Requirements:

The ADU legislation requires local agencies to approve JADU applications with a building permit in single-family residential zones provided the JADU meets the requirements of Government Code section 65852.22. Such JADUs can be combined with Building Permit ADUs pursuant to Sections 8107-1.7.4(a)(4) and (b)(4) of the 2023 ADU Ordinance as long as the JADU meets the requirements of both the Government Code section 65852.22 and Section 8107-1.7.6, which directly implements the state law requirements.

Staff proposes the following revisions to Section 8107-1.7.6 to address HCD's comments.

Allowable zones for JADUs:

Government Code section 65852.22(a)(1) provides for the creation of JADUs in areas "*zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.*" Section 8107-1.7.6(a)(1) of the NCZO lists zones where JADUs may be created. This list includes the RPD zone which does not permit the development of single-family dwellings with a ministerial permit. HCD requested that the County remove the RPD zone, or any other zone that does not allow single-family development from the list of zones where JADUs may be created.

During the October 11, 2023 meeting, Planning Division staff agreed that removing the RPD zone from the list of allowable zones for JADUs would be consistent with the ADU and JADU law. That said, staff explained that single-family dwellings are allowed in the RPD zone with a discretionary Planning Commission-approved Planned Development Permit, and removing the RPD zone from the list of allowable zones where JADUs may be developed would be more restrictive. HCD staff further clarified that their direction was consistent with HCD's guidance to other jurisdictions that JADUs may not be allowed in any zone that does not allow single-family dwelling development by right (i.e., with a ministerial permit). Therefore, HCD directed the County to remove the RPD zone from the list of allowable zones in Section 8107-1.7.6(a)(1).

Corresponding Revision in Proposed Ordinance:

The Proposed Ordinance amends Section 8107-1.7.6(a)(1) to remove the RPD zone from the list of zones where JADUs are allowed.

JADUs on lots with multiple single-family homes:

Section 8107-1.7.6(a)(4) currently states that "*Lots with multiple detached single-family dwellings are not eligible to have a JADU.*" According to HCD, Government Code section 65852.22(a)(1) limits "*the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.*" Therefore, if the lots are zoned for the development of single-family residences, one JADU may be permitted on a lot with multiple detached single-family dwellings. HCD

further noted that this is one JADU per lot, not per single-family home on such a lot; and requested that the County amend the ordinance to comply with the statute.

During the October 2023 meeting, Planning Division staff highlighted that HCD's comment conflicts with their guidance in the ADU Handbook³ (last updated July 2022) at page 3, which provides: "*JADUs are limited to one per residential lot with a single-family residence. Lots with multiple detached single-family dwellings are not eligible to have JADUs.*" In response, HCD staff provided additional information during the meeting that an updated ADU handbook is anticipated to be published in 2024 which will amend this guidance, and now allow for one JADU on a lot with multiple single-family dwellings.

Planning Division staff requested concurrence from HCD regarding this guidance in advance of this hearing as the updated handbook is not yet available. HCD's concurrence was received on March 6, 2024, and is included in Exhibit 9.

Corresponding Revision in Proposed Ordinance:

The Proposed Ordinance revises Section 8107-1.7.6(a)(2) to allow one JADU on a lot with multiple single-family dwellings.

(iii) Revisions to incorporate new state law provisions:

The following sections incorporate revisions consistent with new legislation effective January 1, 2024 (Assembly Bills 976 and 1033):

- Section 8107-1.7.2: Revised definition for "Nonconforming Zoning Condition"; and
- Section 8107-1.7.7(e)(4): Revised language to state that an ADU "shall" not be sold or otherwise conveyed separately from the primary residence.

b) Proposed revisions by Planning staff for consistency and clarification:

(i) Revisions to Section 8107-1.7.5 – ADUs not meeting standards for Building Permit ADUs (i.e., Zoning Clearance ADUs):

As discussed above in Section A.6, subsection (a)(i) above, HCD requested revisions that increase the number of Building Permit ADUs allowed on residential and mixed-use lots with a proposed or existing single-family dwelling to two ADUs. These revisions are reflected in Section 8107-1.7.4 of the Proposed Ordinance, consistent with Government Code section 65852.2(e).

During their October 11, 2023 meeting, staff explained to and clarified for HCD that, unlike Building Permit ADUs, ADUs requiring a Zoning Clearance pursuant to Section 8107-1.7.5 are subject to development standards consistent with

³ ADU Handbook, last updated July 2022. <https://www.hcd.ca.gov/sites/default/files/2022-07/ADUHandbookUpdate.pdf>

Government Code section 65852.2(a), and no revisions to Section 8107-1.7.5 are necessary to comply with state law.

That said, to retain consistency in implementation in the residential and mixed-use zones, Planning staff proposes revising Section 8107-1.7.5 to allow property owners to be able to build one ADU on each lot with a Zoning Clearance pursuant to Section 8107-1.7.5, and an additional ADU directly with a building permit pursuant to Section 8107-1.7.4, subsections (a) or (b), provided they meet the applicable criteria. Only one ADU with a Zoning Clearance would continue to be allowed on lots within the AE, OS and TP zones pursuant to Section 8107-1.7.5 as they are not residential or mixed-use zones.

Therefore, the Proposed Ordinance includes a revision to Section 8107-1.7.5(b) to reflect this intent.

(ii) **Other minor revisions:**

A minor revision was made to Section 8107-1.7.7(f)(2) to add a cross reference for owner occupancy requirements in the deed restrictions required for JADUs. This revision was added as a clarification to applicants.

Exhibits 4 and 5 include the complete text of the Proposed Ordinance in a legislative/strike-out version and clean format, respectively.

B. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE AND FINDINGS

The Proposed Ordinance (Exhibit 5) is a “project” as defined by the California Environmental Quality Act (“CEQA”) (Public Resources Code, §21000 et seq.) and the CEQA Guidelines (California Code of Regulations, title 14, §15000 et seq.).

Planning Division staff has determined that the adoption of the Proposed Ordinance (Exhibit 5) is exempt from CEQA review pursuant to Public Resources Code section 21080.17, which provides, in pertinent part, that CEQA does not apply to the adoption of an ordinance to implement the provisions of Government Code section 65852.2. The Proposed Ordinance implements recent amendments to Government Code section 65852.2 establishing new requirements relating to the ministerial approval of ADU and JADU applications. On that basis, adoption of the Proposed Ordinance is exempt from CEQA.

C. NCZO AMENDMENT FINDINGS AND SUPPORTING EVIDENCE

Section 8115-0 et seq. of the NCZO authorizes the Board to change or amend the zoning ordinance “*whenever the public health, safety, or general welfare, good zoning practice, and consistency with the General Plan justify such action...*” provided that the Board makes certain findings.

The Proposed Ordinance amendment directly implements revisions consistent with the state ADU law, which were identified by HCD during its review of the previously adopted

2023 ADU Ordinance (Ord. No. 4615, Exhibit 6). The required findings pursuant to section 8115-0 of the NCZO remain the same as those that were evaluated and made by the Board for Ordinance No. 4615. An evaluation of the required findings is included in Exhibit 10, sub-exhibit 1 for your Commission's consideration in providing its recommendation to the Board.

Overall, the Proposed Ordinance facilitates the development of ADUs and JADUs in compliance with state ADU law. The proposed amendments to the NCZO would not be detrimental to the public health, safety or general welfare, represent good zoning practice, and do not conflict with existing General Plan or Area Plan goals or policies and are, therefore, deemed consistent with the Ventura County General Plan. Therefore, the Board's ability to make the required findings can be made.

D. PUBLIC OUTREACH

Since the adoption of the 2023 ADU Ordinance, County Planning staff updated the ADU-related webpage⁴ to share information regarding ADUs and JADUs allowed with a building permit, and the process for obtaining a Zoning Clearance for all other ADUs. In addition, Planning staff notified interested parties who signed up through the online sign-up form for the 2023 ADU Ordinance of periodic updates to the ADU webpage and this Planning Commission hearing for the Proposed Ordinance.

E. PLANNING COMMISSION HEARING NOTICE AND COMMENTS

The Planning Division provided public notice regarding the Planning Commission hearing in accordance with Government Code section 65090. The Planning Division also sent an email to interested parties from the online sign-up form for the 2023 ADU Ordinance, and placed a legal ad providing notice of this public hearing in *Vida* (in Spanish) on March 21, 2024, and in the Ventura County Star (in English) on March 22, 2024. This Planning Commission staff report and associated exhibits were made available to the public on the Planning Division website on March 28, 2024. The Planning Commission hearing will include simultaneous interpretation in Spanish for the community.

F. RECOMMENDED ACTIONS

Based upon the analysis and information provided above, Planning Division staff recommends that the Planning Commission take the following actions:

1. **CERTIFY** that your Commission has reviewed and considered this staff report and all exhibits hereto, and has considered all comments received during the public comment and hearing process;
2. **ADOPT** a Resolution (Exhibit 3) recommending that the Board of Supervisors take the following actions regarding the Proposed Ordinance:

⁴ Planning Division webpage for information on ADU and JADU Permits: <https://vcrma.org/en/accessory-dwelling-unit-permits>

- a. **CERTIFY** that the Board of Supervisors has reviewed and considered the Board letter, the Planning Commission staff report and all exhibits thereto and has considered all comments received during the public comment and hearing process; and
- b. **FIND**, on the basis of the entire record and as set forth in Section B of the Planning Commission staff report, that the adoption of the Proposed Ordinance amending Article 7 of the Non-Coastal Zoning Ordinance to amend regulations for accessory dwelling units and junior accessory dwelling units consistent with Government Code Sections 65852.2 and 65852.22 (Exhibit 5) is exempt from CEQA review pursuant to Public Resources Code section 21080.17, which provides, in pertinent part, that CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Government Code section 65852.2; and
- c. **FIND**, on the basis of the entire record and as set forth in Sections A, B, C and D of the Planning Commission staff report, that the Proposed Ordinance amending Article 7 of the Non-Coastal Zoning Ordinance (Exhibit 5) is consistent with the goals, policies and programs of the Ventura County General Plan and good planning practices and is in the interest of public health, safety and general welfare; and
- d. **ADOPT** the Proposed Ordinance amending Article 7 of the Non-Coastal Zoning Ordinance (Exhibit 5); and
- e. **SPECIFY** the Clerk of the Board of Supervisors at 800 S. Victoria Avenue, Ventura, CA 93009 as the custodian and location of the documents and materials that constitute the record of proceedings upon which these decisions are based.

This staff report has been reviewed by County Counsel. The Board of Supervisors hearing to consider the Proposed Ordinance is tentatively scheduled for June 4, 2024, in the Board of Supervisor's hearing room.

If you have any questions concerning the information presented above, please contact Ruchita Kadakia at (805) 654-2414 or by email at Ruchita.Kadakia@ventura.org.

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EXHIBITS:

- Exhibit 2: Location Map of Applicable Zones for Proposed Ordinance Pertaining to ADUs and JADUs in the Non-Coastal Zones
- Exhibit 3: Proposed Planning Commission Resolution to the Board of Supervisors
- Exhibit 4: Proposed Ordinance amending Article 7 of the Non-Coastal Zoning Ordinance (legislative version)
- Exhibit 5: Proposed Ordinance amending Article 7 of the Non-Coastal Zoning Ordinance (clean version)
- Exhibit 6: 2023 ADU Ordinance (Ord. No. 4615)
- Exhibit 7: Comment letter from HCD, received September 9, 2023, in response to the County's submittal of the adopted Ordinance No. 4615 for ADUs and JADUs
- Exhibit 8: ADU and JADU Laws (Government Code sections 65852.2 and 65852.22), last updated January 1, 2024
- Exhibit 9: Email communication received from HCD staff on March 6, 2024
- Exhibit 10: February 7, 2023, Board of Supervisors agenda packet for the 2023 ADU Ordinance, including all attachments