Kadakia, Ruchita

From: ClerkoftheBoard
Sent: Monday, June 3, 2024 7:20 AM
To: Kadakia, Ruchita
Subject: FW: Item no. 66

Good morning,

Please include this correspondence as part of your record.

Thank you,

Lori

From: B Borchard <bborchard00805@gmail.com>
Sent: Sunday, June 2, 2024 2:25 PM
To: ClerkoftheBoard <ClerkoftheBoard@ventura.org>
Cc: Community Development <Community.Development@ventura.org>
Subject: Item no. 66

Honorable Board of Supervisors,

The proposed ordinance amendments represent a significant step toward addressing the housing crisis in Ventura County. They rightly prioritize the development of ADUs, streamlined permitting, and clarifications made after the April 4, 2024, Planning Commission hearing.

Detailed Comments and Recommendations:

To maximize the impact of these amendments, the County should invest in outreach and education for property owners. **Informational brochures, workshops, and updated online resources** will help residents understand their options and the benefits of ADU development.

I respectfully urge you to address the ongoing challenges within the Planning Division. Despite numerous public requests for an **ADU/JADU Homeowners Guidebook and updated standardized plans**, these needs remain unmet. The vacancies in the Housing manager's team over the past four years have been particularly concerning given the pressing issue of homelessness in

Ventura County. The lack of a Guidebook has directly impacted residents, especially in areas where there is a complete inability to build new ADUs due to insufficient infrastructure. This exacerbates the housing shortage and leaves residents without viable solutions for expanding their housing options.

Compared to neighboring counties, Ventura County is working hard to provide essential housing resources and guidelines. However, if these resources are not practical, it further worsens the homelessness crisis. The frequent turnover and the necessary time spent on training new staff not only hinder progress but also result in an inefficient use of public resources. The financial implications of this turnover are significant, diverting funds that could be better utilized for direct community support and project completion. **Streamlining these processes would greatly benefit all parties involved. Therefore, I recommend meeting the numerous public requests for an ADU/JADU Homeowners Guidebook and updated standardized plans.**

I would also like to highlight the proactive measures recently adopted by the Ventura County Board of Supervisors to combat homelessness. On February 27, the Board implemented significant steps, including securing $2.6 million in funding to stabilize up to 500 households over two years and adding fifteen full-time positions to enhance the County's homelessness response. These actions aim to make homelessness rare, brief, and non-recurring. **However, the lack of ADU guidelines and resources continues to undermine these efforts by limiting the housing options available to residents.**

In conclusion, I respectfully request that you adopt the proposed ordinance amendments to promote the development of ADUs and JADUs in Ventura County. Additionally, addressing the internal challenges will further support the County's efforts to combat homelessness.

June 3, 2024
Re: Board of Supervisor Hearing on June 4, 2024
AGENDA ITEM NO: 66

Members of the Board of Supervisors,

I prepared the letter below and attachments for the Planning Commission in April on the topic of the ADU Amendment in response to the Housing and Community Development Department Notice of Noncompliance. I attended the Planning Commission Hearing where it was mentioned that one letter had been received however no questions were asked of staff in relation to anything in my letter.

My request is that the Board of Supervisors look into these issues and at a minimum request that staff pause and consider the issues. Sadly, they know of these issues from my case, have chosen to ignore them, and have created narratives to explain the situation.

I'm hopeful that you will see what I see and take action. Thank you for your consideration.

Sincerely,
Tracy Cortez
Billiwhack Ranch
213-308-0015
tracy@billiwhack.com

April 1, 2024
Re: Planning Commission Hearing on April 4, 2024
CASE NUMBER: PL240014

Members of the Planning Commission,

The Planning staff of Ventura County have a big task in orchestrating an ADU Ordinance and keeping up with the State of California's updates to the State ADU Law. I appreciate their efforts to stay current. As a property owner in the County, I review State Law through the lens of the citizen which is often different than how it is viewed by local government. I'd like to share an alternate viewpoint of the proposed amendment.

The purpose of the State Law on ADU's is to aide in keeping housing production to the level of housing demands in California. Some of the major benefits of ADUs are:

- Significantly less expensive to build than traditional single family detached housing
- Provides an environmental quality benefit
- Do not require the cost of new land or infrastructure
- Converting existing space requiring only renovation is extremely cost saving
- Converting existing space is a beneficial way to use underutilized or unused space
- Provides affordable space for renters and extra income for property owners
- Provides housing for the aging or struggling family while providing privacy

The Department of Housing and Community Development (HCD) is a state agency that is a statewide leader in the formation and implementation of data-driven policies and programs to address California's diverse housing and community challenges. Within the State ADU Law, the HCD (the department) is charged with reviewing and commenting on ordinance compliance of local agencies. Local agency ordinances are optional and, if adopted, cannot be more limiting than the State Law. The HCD is the accountability arm of the State ADU Law and reports to the Attorney General for enforcement of the law.

As you are aware, the HCD issued a letter, *Exhibit 7 of the hearing packet*, to the Ventura County Planning Department (County) after reviewing the County's adopted ADU ordinance. Planning calls this document a comment letter when in reality it is a notice of non-compliance.

- Per the second paragraph of the HCD's letter, the HCD states "…HCD finds that the ordinance does not comply with State ADU Law in the following respects…".
- At the end of each of the ten noncompliant items, the HCD states that the County must amend the ordinance accordingly. They use the word **must**. They do not say *amend if the County sees fit* or *amend if the County agrees*.

I present this to the Planning Commission so that light can be shed on this matter. This HCD letter is a directive from a State Agency who is responsible for the accountability of the state's housing laws. It is telling the County their ordinance is not in compliance with State Law and it is directing the County to amend their ordinance.

The County's position regarding this letter and its many discussions and communications with the HCD is that the HCD is *interpreting* State Law rather than viewing the HCD and the State as the ultimate authority. The County disagrees with the HCD's regulatory opinion. The County has asserted that the HCD *agrees* with the County's decisions on which noncompliance items they will amend and which they will not. While there is language in the State Law[1] that outlines what must occur if the County elects not to follow the HCD's requirements in an ordinance review letter, the County should not interpret the HCD's position as one of agreement. There are legal underpinnings to this section of the law and simply creating a resolution that outlines why the County is not adhering to the State Law does not bring them into compliance, rather it shifts the enforcement into lawsuit territory.

I have reviewed the County's ADU Ordinance as it relates to my particular ADU applications. I have applied for an ADU permit twice, through an unlawful zoning clearance process, and have been denied both times. I'd like to briefly share with you my experience in applying for an ADU and my subsequent review and research of the State Law in relation to my ADU.

I first applied for an ADU in June of 2020. I was denied for a number of reasons including definition of zoning, definition of accessory structure, and size maximums. These reasons seemed counter to what my architect understood from State Law so he began to research. The HCD's ADU Handbook was the closest tangible document in providing clarity on our specific questions but there were still holes in our understanding.

In January of 2022 I wrote to the HCD asking them to review the 2020 denial notice.

In April of 2022 I wrote to the planning director, Dave Ward, with as much research and knowledge as I had at that time and asked him to reconsider the denial for the reasons I outlined. (Exhibit-B)

In May of 2022 Mr. Ward responded (Exhibit-C). He reiterated all denial points and included this statement;

> *"Staff agree that if the subject property was located within a residential or mixed-use zone as listed under denial reason 1, above, the creamery building would be allowed to be entirely converted to an ADU with no size or bedroom limitation."*

In October of 2022 I received a response from the HCD and on January 31, 2023 and after multiple conversations I received a determination from an HCD Policy Analyst outlining the exact definitions that were subject to opinion up to this point;

> *It's is HCD's position that Government Code section 65852.2 applies to any zone that permits residential development by- right. As the Agricultural Exclusive and Open Space zones permit single-family development, the county is required to comply with all relevant language in section 65852.2, including subdivision (e)(1)(A)(i), which requires ministerial approval of one ADU and one JADU when "...The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling* ***or accessory structure****." For the purposes of ADU law, the designation of a primary residential dwelling renders other structures onsite accessories to that primary dwelling. Size maximums may not apply to units created in converted structures, as local development standards pursuant to subdivisions (a) through (d) may not preclude a unit created subject to subdivision (e). Therefore, NCZO section 8107-1.7.1, subdivision (a) conflicts with state law and must be amended to ministerially permit ADUs created in converted accessory structures without reference to a size limitation. (Exhibit-A)*

This email hit every denial point succinctly, zone definition[2], accessory structure definition, size maximums, ministerial review[3], and points out that their determination applies to the entirety of the state law, 65852.2, not just to certain types of ADUs as the County's ordinance reads. This determination is addressing my ADU application and my denial specifically and took into account a phone meeting with the County the same morning that it was issued. The County received a copy of the HCD's determination and I re-applied for my ADU on February 7, 2023. I was denied again by County Planning.

Per Mr. Ward's statement in his letter of May 2022, and based on the clarity provided by the HCD on January 31, 2023, specifically the definition of zones that allow ADUs, my ADU should have been approved. However, on February 7, 2023 Senior Planner Franca Rosengren and RMA Director Kim Prillhart informed me that the County disagreed with the HCD's *interpretation*. The State ADU Law and the HCD are clear; my ADU is allowed. The Planning Department's noncompliant position is that ADU's are MORE restricted on AE zoned properties than on the smallest R1 lot. Their position is unlawful.

In December, the County developed the "resolution" matrix, Exhibit-D, required by State ADU Law when a local agency does not bring their ordinance into compliance[1]. In the resolution, the County boldly asserts that the HCD has misunderstood their ordinance. The HCD has not misunderstood it. The ordinance is nonconforming

and due to the County's reorganization of the State Law criteria into ADUs that are ministerial and those that require zoning review and unable to utilize the law as intended, the County has obfuscated the issues by adding needless complexity to deflect the reader away from the fact that the County is refusing to follow State Law.

I urge the Commission to deny this amendment and request that staff adhere to HCD's findings of noncompliance. If the leaders of our local government don't follow the rules, how can they expect their citizens to? I suggest reaching out to groups such as CoLab which has a very good success rate in solving issues like this with Ventura County.

Sincerely,

Tracy Cortez
213-308-0015
tracy@billiwhack.com

April 1, 2024
Re: Planning Commission Hearing on April 4, 2024
CASE NUMBER: PL240014

References

1) 65852.2 (h) Compliance with State ADU Law:

(h)(1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(h)(2)(A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(h)(3)(A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

2) 65852.2 (a) State ADU Law allowed zones:

(a)(1) (D) (ii) The lot is **zoned to allow** single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(e)(1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit **within a residential or mixed-use zone** to create any of the following:

"…it is HCD's position that Government Code section 65852.2 applies to any zone that permits residential development by-right. As the Agricultural Exclusive and Open Space zones permit single-family development, the county is required to comply with all relevant language in section 65852.2, including subdivision (e)(1)(A)(i), which requires ministerial approval of one ADU and one JADU when "...The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling **or accessory structure**."

3) 65852.2 (a) State ADU Law ministerial requirement:

(a)(3)(A) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved **ministerially without discretionary review or a hearing**, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits.

(a)(6) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that **includes only ministerial provisions** for the approval of accessory dwelling units and **shall not include any discretionary processes, provisions, or requirements** for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(a)(7) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(c)(1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency **shall not establish by ordinance any of the following**:

(C) **Any requirement for a zoning clearance or separate zoning review** or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(e)(1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency **shall ministerially approve** an application for a building permit within a residential or mixed-use zone…

EXHIBIT 7

Comment letter from HCD, received September 9, 2023, in response to the County's submittal of the Adopted Ord. No. 4615 for ADUs and JADUs

Proposed NCZO Amendments for Accessory Dwelling Units and Junior Accessory Dwelling Units

(PL24-0014)

County of Ventura
Planning Commission Hearing
Case No. PL20-0023
Exhibit 7 – Comment Letter from HCD, received September 9, 2023

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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

September 5, 2023

Ruchita Kadakia, Planning Manager
Planning Division
County of Ventura
800 S. Victoria Ave., L #1740
Ventura, CA 93009

Dear Ruchita Kadakia:

RE: Review of Ventura County's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, § 65852.2)

Thank you for submitting the County of Ventura (County) accessory dwelling unit (ADU) Ordinance No. 4615 (Ordinance), adopted February 7, 2023, to the California Department of Housing and Community Development (HCD). HCD has reviewed the Ordinance and submits these written findings pursuant to Government Code section 65852.2, subdivision (h). HCD finds that the Ordinance does not comply with section 65852.2 in the manner noted below. Under that statute, the County has up to 30 days to respond to these findings. Accordingly, the County must provide a written response to these findings no later than October 5, 2023.

The Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU Law in the following respects:

- Section 8107-1.7.2 – *Citations* – The Ordinance incorrectly cites state statute in their definitions for "Passageway," "Proposed Dwelling," "Public Transit," and "Tandem Parking." Passageways are defined in Government Code section 65852.2, subdivision (j)(8); proposed dwellings are defined in subdivision (j)(10); public transit is defined in subdivision (j)(11); and tandem parking is defined in subdivision (j)(12). The County must amend the Ordinance accordingly.

- Section 8017-1.7.4 (a)(1) and (b)(1) – *JADUs and Zoning* – The Ordinance lists zones where ADUs and JADUs may be created. This list includes RPD and CPD/CBD, neither of which permit the development of single-family dwellings. Government Code section 65852.22, subdivision (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." Therefore, JADUs may not be allowed in the RPD, CPD/CBD, or any other zone that does not allow single-family dwelling development. The County must amend the Ordinance to comply with State ADU Law.

- Section 8107-1.7.4 (b), 8107-1.7.5 (b) – *ADU Allowance* – The Ordinance states that a new detached ADU "may be combined with a JADU if all the following standards are met ... " This implies that the unit combination of a converted ADU and a new detached ADU are not allowed. It later states, "Each lot may have one ADU if the standards of this Section 8107-1.5 (b) are met, and one JADU if the standards of this Section 8107-1.5 (b) are met." This limits allowable ADU combinations to one ADU and one JADU.

  However, Government Code section 65852.2, subdivision (e)(1), states, "Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following: (A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling…(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure." Subparagraph (B) permits "One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks." The use of the term "any" followed by an enumeration of by right ADU types permitted indicate that any of these ADU types can be combined on a lot zoned for single family dwellings. This permits a homeowner, who meets specified requirements, to create one converted ADU; one detached, new construction ADU; and one JADU. Thus, if the local agency approves an ADU that is created from existing (or proposed) space, and the owner subsequently applies for a detached ADU (or vice versa) that meets the size and setbacks pursuant to the subdivision, the local agency cannot deny the application, nor deny a permit for a JADU under this section. HCD notes that the Legislature, in creating the list, did not use "or" or "one of" to indicate only one or another would be applicable to the exclusion of the other. This subdivision applies equally to ADUs created pursuant to Government Code section 65852.2, subdivisions (e)(1)(C) and (D), on lots with proposed or existing multifamily dwellings. Limiting single-family lots to one ADU would prevent property owners from creating ADUs by right under subdivision (e)(1). The County must revise the Ordinance to remove this restriction.

- Section 8107-1.7.4 (d)(3) – *Detached Size Maximum* – The Ordinance states that "new construction ADUs shall not exceed 1,200 square feet." However, there are no size maximums stated in Government Code section 65852.2, subdivision (e)(1)(D). Subdivision (e)(1)(D) requires that ADUs created in multifamily developments pursuant to this subdivision only meet the height requirements prescribed in subdivision (c)(2)(D), be detached from the multifamily structure, and meet four-foot side and rear yard setbacks. No additional standards are required. The local design standards provided by the Ordinance pursuant to Government Code section 65852.2, subdivisions (a) through (d), may not preclude a unit built subject to subdivision (e). Therefore, a unit subject to subdivision (e)(1)(D) may not be subject to a maximum size. The County must remove this section.

- Section 8107-1.7.4 (d)(5) – *Detachment Requirement* – The Ordinance states that detached units "must be detached from the existing or proposed multifamily

dwelling and from other accessory structures." However, Government Code section 65852.2, subdivision (e)(1)(D), only requires that such units are "detached from that multifamily dwelling…." The subdivision does not require that the ADU be detached from other accessory structures; therefore, the section, as written, is more stringent than State ADU Law. The County must remove the phrase "and from other accessory structures."

- Section 8107-1.7.5 (h)(3) – *Converted Size Maximums* – The Ordinance requires that ADUs within converted spaces "[do] not exceed the size maximums for attached or detached ADUs…." ADUs that are created from existing space of single-family dwellings are created pursuant to Government Code section 65852.2, subdivision (e). Local design standards provided by the Ordinance pursuant to subdivisions (a) through (d) may not preclude a unit built subject to subdivision (e). Therefore, no size maximums may apply to any converted unit, whether within the primary dwelling or an accessory structure. The County must remove this reference.

- Section 8107-1.7.5 (i)(1) – *Design Requirements* – The Ordinance states, "No accessory structure shall be attached to a detached ADU unless the combined total floor area… does not exceed the allowable size." However, adjacency to an accessory structure is a local design requirement that may not preclude units subject to Government Code section 65852.2, subdivision (e). Therefore, the County must note the exceptions or remove this section.

- Section 8107-1.7.6 (a)(4) – *JADUs with Multi Single Family Homes* – The Ordinance states, "Lots with multiple detached single-family dwellings are not eligible to have a JADU." However, Government Code section 65852.22, subdivision (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." (Emphasis added.) 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. Please note that this is one JADU per *lot*, not per single-family home on such a lot. The County must amend the Ordinance to comply with statute.

- Section 8107-1.7.7(b)(2) – *Zoning Clearance* – The Ordinance requires a "ministerial Zoning Clearance" if a proposed ADU does not meet the standards of Section 8107-1.7.4. However, Government Code section 65852.2, subdivision (c)(2)(C), prohibits "[a]ny requirement for a **zoning clearance** or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards." (Emphasis added.) The County must amend the Ordinance and remove the zoning clearance requirement.

- Section 8119-1.3.3 (a) – *Placement* – The Ordinance states, "Buildings, Accessory Dwelling units (ADU) pursuant to Sec. 8107-1.7.5, and other habitable/non-habitable accessory buildings shall be located within the building site per Table 1.3.3(a) below." Table 1.3.3(a) allows ADU placement exclusively in the rear of any primary dwelling. However, Government Code section 65852.2, subdivision (c)(2)(C), prohibits "[a]ny requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, **front setbacks**, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with **four-foot side and rear yard setbacks** to be constructed in compliance with all other local development standards." (Emphasis added.) Therefore, the Ordinance may not preclude an 800 square-foot unit subject to all other local design standards, and the attached or detached ADU may be located, partially or completely, in the front setback.

In response to the findings in this letter, and pursuant to Government Code section 65852.2, subdivision (h)(2)(B), the County must either amend the Ordinance to comply with State ADU Law or adopt the Ordinance without changes. Should the County choose to adopt the Ordinance without the changes specified by HCD, the County must include findings in its resolution that explain the reasons the County finds that the Ordinance complies with State ADU Law despite the findings made by HCD. Accordingly, the County's response should provide a plan and timeline to bring the Ordinance into compliance.

Please note that, pursuant to Government Code section 65852.2, subdivision (h)(3)(A), if the County fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD may notify the County and the California Office of the Attorney General that the County is in violation of State ADU Law.

HCD appreciates the County's efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the County in fully complying with State ADU Law. Please contact Mike Van Gorder, of our staff, at (916) 776-7541 or at mike.vangorder@hcd.ca.gov if you have any questions or would like HCD's technical assistance in these matters.

Sincerely,

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

EXHIBIT A

From: Van Gorder, Mike@HCD <Mike.VanGorder@hcd.ca.gov>
Sent: Tuesday, January 31, 2023 3:57 PM
To: Rosengren, Franca <Franca.Rosengren@ventura.org>; Wright, Winston <Winston.Wright@ventura.org>; Ward, Dave <Dave.Ward@ventura.org>
Cc: Bernd, Gerlinde@HCD <Gerlinde.Bernd@hcd.ca.gov>
Subject: RE: Meeting request

Hi Franca -

Thank you kindly for meeting with me on the issue of the Billiwhack project. After consultation with management, it is HCD's position that Government Code section 65852.2 applies to any zone that permits residential development by-right. As the Agricultural Exclusive and Open Space zones permit single-family development, the county is required to comply with all relevant language in section 65852.2, including subdivision (e)(1)(A)(i), which requires ministerial approval of one ADU and one JADU when "...The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling **or accessory structure**." For the purposes of ADU law, the designation of a primary residential dwelling renders other onsite structures accessory to that primary dwelling. Size maximums may not apply to units created in converted structures, as local development standards pursuant to subdivisions (a) through (d) may not preclude a unit created subject to subdivision (e). Therefore, NCZO section 8107-1.7.1, subdivision (a) conflicts with state law and must be amended to ministerially permit ADUs created in converted accessory structures without reference to a size limitation.

Mike Van Gorder
Housing Policy Analyst
Accountability and Enforcement Unit
Housing & Community Development
Phone: (916) 776-7541
2020 W. El Camino Avenue
Sacramento, CA 95833

EXHIBIT B

Tracy Cortez · Billiwhack Ranch · 3048 N Coolidge Avenue, Los Angeles, CA 90039 · (213) 308-0015

April 15th 2022

Mr. Dave Ward
Resource Management Agency-Planning Division
800 South Victoria Avenue
Ventura, California 93009
Via Email dave.ward@ventura.org

Re: Billiwhack Ranch Zoning Clearance Application ZC20-0503 Denial, dated 7/15/2020

Dear Mr. Ward,

I'm writing today to assess the validity of the Denial Notice dated July 15, 2020, specifically for zoning clearance application ZC20-0503 Proposed Accessory Dwelling Unit Conversion at 2275 Aliso Canyon Road. Page 3 outlines "Project Consistency with State and Local Accessory Dwelling Unit Regulations" and I have found, through detailed research, that the reasons given for denial contradict State law. I have outlined my findings here and request that you carefully review and respond whether you conclude the same foro each.

Denial reason 1: *"The proposed scope of work is located on property with a zoning designation of Agricultural Exclusive, 40-acre minimum lot six (AE-40ac) which is neither a residential or mixed-use zone in the County, and therefore, Government Code section 65852.2(e)(1)(i) is not applicable to the proposed accessory dwelling unit."*

Government Code Section 65852.2(e)(1) reads: "Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone…"

Accessory Dwelling Units are under the purview of the Housing and Community Development department. The HCD put out the Accessory Dwelling Unit Handbook to "...assist local governments, homeowners, architects, and the general public in encouraging the development of ADUs." The handbook answers many frequently asked questions. On page 9, one of the FAQs is "Are ADUs allowed jurisdiction wide?" to which the HCD answers; "Residential or mixed-use zone should be construed broadly to mean any zone where residential uses are permitted by-right or by conditional use."

Since the Billiwhack Ranch property zoning allows residential use by right, this reason for denial is incorrect.

Denial reason 2: *"In addition, the creamery building is not an "accessory structure" as defined by Government Code section 65852.2(j)(2)."*

Government Code Section 65852.2(j)(2) reads: " "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot."

The County has continued to label the building in question as 'The Creamery' based on its original use from the late 1920s to the early 1940s. Since that time, it has not been used as a Creamery. It has been used most of it's life for manufacturing, among other uses, up until as late as the 1960s. The building has had no defined use since it ceased to be used as a Creamery. The County does not label other buildings as they were originally used, rather they label original cow barns as storage. The building descriptions are not consistent. The County currently appears to be considering the building as a Creamery in their denial. The building has no current defined use and therefore it is not a primary use on the property. It can only be viewed as an accessory use, like a barn or ag storage building.

The HCD's Accessory Dwelling Handbook references accessory structures as follows:

- Defines an "accessory structure" to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU (Gov. Code, § 65852.2(j)(2). (page 6)
- The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to size requirements. For example, an existing 3,000 square foot barn converted to an ADU would not be subject to the size requirements, regardless if a local government has an adopted ordinance. (page 11)
- The most common ADU that can be created under subdivision (e) is a conversion of proposed or existing space of a single-family dwelling or accessory structure into an ADU, without any prescribed size limitations, height, setback, lot coverage, architectural review, landscape, or other development standards. This would enable the conversion of an accessory structure, such as a 2,000 square foot garage, to an ADU without any additional requirements other than compliance with building standards for dwellings. (page 16)
- The conversion of garages, sheds, barns, and other existing accessory structures, either attached or detached from the primary dwelling, into ADUs is permitted and promoted through the state ADU law. (page 16)

Additionally, historic preservation guidelines and the California Historic Building Code promote the granting of new uses to historic structures to encourage property owners to renovate, restore, rehabilitate, and reuse historic structures rather than demolishing them.

Because this structure has no defined use it is incidental to the primary dwelling (H1) on the lot and therefore fits the definition of an accessory structure. And because the HCD's ADU Handbook outlines that an accessory structure can be of any size, and they provide the example of a 3,000 sf barn, this reason for denial is incorrect.

Denial reason 3: *"The request is also inconsistent with the County's accessory dwelling unit provision under NCZO section 8107-1.7.1 et seq., which identifies the standards applicable to an accessory dwelling unit created within the existing space of a principal dwelling unit or accessory structure. These regulations allow certain accessory dwelling units in the OS and AE zones, but only within the existing space of a permitted principal dwelling unit, not in a detached agricultural accessory structure. (NCZO Sec. 8107-1.7.1(b).)"*

As noted in denial reasons 1 & 2 above, government code allows ADUs in residential and mixed-use zones where residential zones should be construed broadly to mean any zone where residential uses are permitted by-right or by conditional use. Nowhere in the law does it limit ADUs in OE or AE zones. Further, the HCD ADU Handbook provides an example of an accessory structure of a 3,000 sf barn which is an allowed ADU. For these findings, this reason for denial is incorrect.

Denial reason 4: *"The accessory dwelling unit is proposed to be located on a lot outside of the County's groundwater/traffic impact areas that is larger than 10 acres in size and therefore is allowed a detached accessory dwelling unit no larger than 1,800-sq. ft. pursuant to NCZO section 8107-1.7.2(a)(3), which reads: "[…] lots that are 10 acres or more in area are allowed an accessory dwelling unit with up to 4 bedrooms and a gross floor area of 1,800 square feet."*

Under Government Code Section 65852.2(e)(1), there is no limit to the size of an accessory structure converted to an ADU. The HCD ADU Handbook, page 11, states "The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to size requirements." Additionally, on the topic of bedrooms, page 13, the handbook states "State ADU law does not allow for the limitation on the number of bedrooms of an ADU. A limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, and would be considered a constraint on the development of ADUs." This reason for denial is incorrect.

Violation: Finally, with regards to the violation case no. CV-19-0100, government code 65852.2(e)(D)(2) states "A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions." Therefore, correction of violations should not prevent or delay the issuance of an approval for an ADU.

I look forward to your response.

Sincerely,

Tracy Cortez

Exhibit 6
EXHIBIT C

COUNTY of VENTURA

RESOURCE MANAGEMENT AGENCY
DAVE WARD, AICP
Planning Director

May 10, 2022

Sent via US Mail and Email to: *tracv@racdb.com and tracv@studiocortez.com*

Tracy Cortez
3048 N. Coolidge Avenue
Los Angeles, CA 90039

Subject: **Response to Tracy Cortez's April 15, 2022 Letters**
Billiwhack Ranch, LLC
2275 Aliso Canyon Road, unincorporated area of Ventura
Appeal Case No.: PL20-0032

Dear Mrs. Cortez:

This letter is in response to your two letters dated April 15, 2022, concerning the July 15, 2020 Notice of Denial of Zoning Clearances ZC19-0684 and ZC19-1390 (Notice of Denial) and the procedures for returning a qualified historic property to its prior use.

The first letter concerns the issuance of the Notice of Denial, which is currently being addressed under Appeal No. PL20-0032. On August 27, 2020, the Planning Commission heard this appeal and upheld the denial of the zoning clearances and denied the related appeal. In response to the Planning Commission's decision, you submitted an appeal to the Board of Supervisors, which is still open and pending. Although your April 15, 2022 letter contains inquiries/questions that have already been addressed (i.e., in the Notice of Denial, the August 27, 2020 Planning Commission staff report, and in other various correspondence and meetings), for the sake of further clarity and per your inquiry, Staff's responses are provided below in the order they are presented in your attached April 15, 2022 letter:

Planning Staff's response to denial reason 1: The subject property is located in the Agricultural Exclusive (AE) zone. The County does not consider the AE zone to be a "residential or mixed-use" zone and therefore, Government Code section 65852.2, subd. (e) does not apply to the proposed ADU, and the County is not required to issue a building permit for the proposed conversion. Indeed, the NCZO provisions specific to ADU's expressly differentiate between ADU requests in areas zoned AE (or Open Space) as compared to other residential or mixed-use zones such as Single-Family Residential or Rural Agricultural. (Compare NCZO Sec. 8107-1.7.1(a)(1) with Sec. 8107-1.7.1(b)(1).) The language you cite from the HCD Accessory Dwelling Unit Handbook does not compel otherwise.

Planning Staff's response to denial reason 2: You assert that the creamery building should be deemed an "accessory structure" to the primary dwelling on the lot. Again, however, the property is zoned AE. An application for a building permit for an ADU created within an existing "accessory structure" is only permitted within the following urban and rural residential zones: Single-Family Residential (R1), Two-Family Residential (R2), Residential Planned Development

(RPO), Residential (RES), Rural Agricultural (RA), Single-Family Estate (RO), or Rural Exclusive (RE) pursuant to NCZO section 8107-1.7.1(a). The County has adopted different regulations for ADUs created within existing space on lots zoned Open Space (OS) or AE. (See Sec. 8107-1.7.1(b).) Unlike Section 8107-1.7.1(a), Section 8107-1.7.1(b) makes no mention of "accessory structure." Rather, it only applies to an ADU created within the existing space of a "permitted principal dwelling unit" (not an accessory structure). That does not apply to the current proposal.

For purposes of the current proposal to convert the creamery building, NCZO section 8107-1.7.1(b) does not allow the option to convert an accessory structure within the AE zone unless it meets the criteria of NCZO section 8107-1.7.2 (Standards for All Other Accessory Dwelling Units). The proposed ADU conversion does not comply with the County's current ADU standards under NCZO section 8107-1.7.2. The ADU is proposed to be located on a lot outside of the County's groundwater/traffic impact areas that is larger than 10 acres in size. As such, the detached ADU shall not exceed a gross floor area of 1,800 square feet pursuant to Section 8107-1.7.2(a)(3). Your proposal would not qualify under NCZO section 8107-1.7.2 (a)(3) because the proposed ADU conversion would have a gross floor area of approximately 17,000 square feet.

Staff agree that if the subject property was located within a residential or mixed-use zone as listed under denial reason 1, above, the creamery building would be allowed to be entirely converted to an ADU with no size or bedroom limitation. Staff also agree that the County cannot limit the number of bedrooms within the 1,800-square foot ADU allowed under Section 8107-1.7.2(a)(3). However, because the property is zoned AE and the proposed ADU will not be created entirely within the existing principal dwelling on the property, the County is not required to issue a building permit to convert the existing creamery to an ADU. (Gov. Code,§ 65852.2, subd. (e)(1)(A).). As described earlier, since the proposal does not meet state and local laws for ADUs to permit with a building permit, it is subject to the local standards that apply to all "other" ADUs so long as not inconsistent with state law. (NCZO Sec. 8107-1.7.2 et seq.; see also, e.g., Gov. Code,§ 65852.2, subd. (a)(1)-(d), (f)-(g), U)-(o).) The proposed ADU is subject to the standards in Section 8107-1.7.2 of the NCZO, but does not meet such standards, as explained above.

Staff have identified this building as a non-residential "creamery building" based on the 1995 Historic Resources Survey District Record within the Western Santa Clara Valley Historic Resources Survey, Phase V, dated July 1996 (See Exhibit 6 of the August 27, 2020 Planning Commission staff report), the County Tax Assessor's records, and the fact that there have been no permits issued by the Planning Division and Building and Safety Division after 1995 for a legal change of use from the creamery building to another use. Staff do not agree that because the structure is not currently being used as an agricultural building (or has not been in some time) that it automatically becomes incidental to the principal dwelling unit on the property. Even if the creamery building was somehow considered to be "accessory" to the principal dwelling on the lot, the same ADU provisions of NCZO section 8107-1.7.2 would apply since the property is zoned AE.

The HCD example regarding the conversion of a 3,000-square foot barn conversion to an ADU does not apply to your property since the property is located within the AE zone, not a residential or mixed-use zone. For example, if the property was in the Rural Agricultural (RA) zone in the county (a rural residential zone), the zone of which purpose is to provide for both residential and horticultural activities, the creamery building could be entirely converted to an ADU with no size or bedroom limit (Gov. Code, § 65852.2(e)(1)(A)).

Denial reason 3: Refer to Staff's responses to denial reasons 1 and 2, above.

Denial reason 4: Refer to Staff's responses to denial reasons 1 and 2, above.

Violation: The denial of the proposal to convert a non-residential structure (i.e., creamery building) to an ADU in the AE zone is not a "correction of nonconforming zoning condition(s)." (Gov. Code, § 65852.2, subd. (e)(2)). Additionally, the County has not prevented or delayed the issuance of an approval for an ADU due to a correction of violations. The request for an ADU conversion was denied because it did not meet state and local zoning regulations and not because of other non-related violations on the property.

With regard to your second letter concerning the change of occupancy/use of a qualified historic building or property under the California Historical Building Code (HBC), Staff refers you to the August 27, 2020 Planning Commission staff report, page 11 of 16, Planning Division Staff's Response to Ground of Appeal. In short, the HBC does not dictate what is permissible on the property under present zoning standards. Depending on what historic use you propose to return it to, the use would need to meet the current regulations of the Non-Coastal Zoning Ordinance (NCZO) unless zoning deviations are allowed (and the property qualifies) under NCZO section 8107-37 (Cultural Heritage Sites). A discretionary permit (i.e., Planned Development Permit) would be required for deviations under NCZO section 8107-37, as well as review by the Cultural Heritage Board.

If you have questions, please contact Ms. Franca Rosengren, Senior Planner, by phone at (805) 654-2045 or by email at Franca.Rosengren@ventura.org. Alternatively, you may contact Winston Wright, Planning Manager, by phone at (805) 654-2468 or by email at Winston.Wright@ventura.org.

Dave Ward, AICP, Director
Ventura County Planning Division

Attachment: Tracy Cortez's April 15, 2022 Letters

C: Tracy and Rick Cortez, 3048 North Coolidge Avenue, Los Angeles, CA 90039
John Hecht, Sespe Consulting, via email
Peter Goldenring, Pachowicz & Goldenring, A Professional Law Corporation, via email

Dean Phaneuf, RMA, Code Compliance Division
Amanda Ahrens, RMA, Code Compliance Division
Maruja Clensay, Board Aide, Board of Supervisor Matt LaVere

EXHIBIT D

ASSESSMENT OF HCD COMMENTS (FROM LETTER DATED SEPTEMBER 5, 2023) REGARDING COUNTY OF VENTURA'S ADOPTED ADU ORDINANCE; AS DISCUSSED ON OCTOBER 11, 2023

October 11, 2023 Meeting Attendees:

County of Ventura: Dave Ward, Ruchita Kadakia

HCD Staff: David Garza, Jamie Candelaria, Mike Van Gorder

	HCD COMMENT	RESPONSE FROM PLANNING DIVISION
1	**Section 8107-1.7.2 – *Citations*** – The Ordinance incorrectly cites state statute in their definitions for "Passageway," "Proposed Dwelling," "Public Transit," and "Tandem Parking." Passageways are defined in Government Code section 65852.2, subdivision (j)(8); proposed dwellings are defined in subdivision (j)(10); public transit is defined in subdivision (j)(11); and tandem parking is defined in subdivision (j)(12). The County must amend the Ordinance accordingly.	• Comment is consistent with ADU law. • Citations were corrected administratively following adoption of the ADU Ordinance by the Board of Supervisors. • Section 8107-1.7.2 reflects these corrected citations already. **County Planning Recommendation:** No revision is necessary.
2	**Section 8017-1.7.4 (a)(1) and (b)(1) – *JADUs and Zoning*** – The Ordinance lists zones where ADUs and JADUs may be created. This list includes RPD and CPD/CBD, neither of which permit the development of single-family dwellings. Government Code section 65852.22, subdivision (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." Therefore, JADUs may not be allowed in the RPD, CPD/CBD, or any other zone that does not allow single-family dwelling development. The County must amend the Ordinance to comply with State ADU Law.	• Comment is consistent with ADU and JADU law. • Pursuant to Sec. 8107-1.7.4(a)(4) and Sec. 8107-1.7.4(b)(4), JADUs must *also* comply with the requirements of Government Code section 65852.22 and Sec. 8107-1.7.6. • JADU requirements in Sec. 8107-1.7.6(a) specifies that JADUs are limited to lots zoned: R1, R2, RES, RPD, RA, or RO. JADUs are not allowed in the CPD/CBD zone, however, they are allowed in the RPD zone. • Contrary to HCD's comment, single-family dwellings are allowed in the RPD zone with a discretionary Planning Commission-approved Planned Development Permit. **County Planning Recommendation:** Planning Division will revise ordinance to delete RPD zone from the list of zones where JADUs are allowed. *Note for HCD: Removing the zone is more restrictive.*

	HCD COMMENT	RESPONSE FROM PLANNING DIVISION
3	**Section 8107-1.7.4 (b), 8107-1.7.5 (b) – *ADU Allowance* –** The Ordinance states that a new detached ADU "may be combined with a JADU if all the following standards are met .... " This implies that the unit combination of a converted ADU and a new detached ADU are not allowed. It later states, "Each lot may have one ADU if the standards of this Section 8107-1.5(b) are met, and one JADU if the standards of this Section 8107-1.5(b) are met." This limits allowable ADU combinations to one ADU and one JADU. However, Government Code section 65852.2, subdivision (e)(1), states, "Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following: (A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling…(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure." Subparagraph (B) permits "One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks." The use of the term "any" followed by an enumeration of by right ADU types permitted indicate that any of these ADU types can be combined on a lot zoned for single family dwellings. This permits a homeowner, who meets specified requirements, to create one converted ADU; one detached, new construction ADU; and one JADU. Thus, if the local agency approves an ADU that is created from existing (or proposed) space, and the owner subsequently applies for a detached ADU (or vice versa) that meets the size and setbacks pursuant to the subdivision, the local agency cannot deny the application, nor deny a permit for a JADU under this section. HCD notes that the Legislature, in creating the list, did not use "or" or "one of" to indicate only one or another would be applicable to the exclusion of the other. This subdivision applies equally to ADUs created pursuant to Government Code section 65852.2,	• The ADU law is not clear as to this issue. HCD clarification requested during meeting on October 11, 2023. • While HCD cites to language in Sec. 8107-1.5(b), that section applies only to *"ADUs not authorized under Sec. 8107-1.7.4."* In other words, the provision cited by HCD that imposes a maximum of one ADU and one JADU provided the criteria in Sec. 8107-1.7.5 and 8107-1.7.6 are met, do not apply to ADUs authorized by Government Code section 65852.2(e). • Sec. 8107-1.7.4 addresses ADUs authorized by Government Code section 65852.2(e) (i.e., Building Permit only ADUs), while Sec. 8107-1.7.5 addresses all other ADUs (i.e., ADUs requiring a Zoning Clearance). Unlike building permit only ADUs, ADUs requiring a Zoning Clearance are subject to development standards consistent with Government Code section 65852.2, subd. (a). **County Planning Recommendation:** Based on discussion with HCD on October 11, 2023, regarding their interpretation of Government Code section 65852.2 subd. (e), County will revise ordinance to allow a property owner of a lot with a single-family dwelling in a residential or mixed-use zone to develop their lot with up two ADUs (one ADU created by converting existing space within the SFD or an accessory structure, and another detached new construction ADU), in addition to one JADU provided they meet the statutory criteria.

	HCD COMMENT	RESPONSE FROM PLANNING DIVISION
	subdivisions (e)(1)(C) and (D), on lots with proposed or existing multifamily dwellings. Limiting single-family lots to one ADU would prevent property owners from creating ADUs by right under subdivision (e)(1). The County must revise the Ordinance to remove this restriction.	
4	**Section 8107-1.7.4 (d)(3) – *Detached Size Maximum* (for ADUs on lots with multifamily dwellings) –** The Ordinance states that "new construction ADUs shall not exceed 1,200 square feet." However, there are no size maximums stated in Government Code section 65852.2, subdivision (e)(1)(D). Subdivision (e)(1)(D) requires that ADUs created in multifamily developments pursuant to this subdivision only meet the height requirements prescribed in subdivision (c)(2)(D), be detached from the multifamily structure, and meet four-foot side and rear yard setbacks. No additional standards are required. The local design standards provided by the Ordinance pursuant to Government Code section 65852.2, subdivisions (a) through (d), may not preclude a unit built subject to subdivision (e). Therefore, a unit subject to subdivision (e)(1)(D) may not be subject to a maximum size. The County must remove this section.	• Conflicts with guidance from HCD regarding permissible size limits on new construction detached ADUs, specifically see e-mail from Gerlinde Bernde with HCD to Ruchita Kadakia dated January 30, 2023. (Mike VanGorder copied to this email). Excerpted response from HCD provided below: *"GC 65852.2(e)(1)(D) allows for not more than two detached ADUs located on a lot with an the exiting multifamily dwelling. Although this section does not specify the allowable size of the ADUs, your restriction to a maximum size of 850 square feet each would be too limiting.* *You could limited the size of new detached ADUs to 1,200 square feet each, but there is no size limitation for conversions."* *For a full exploration of the size limits, please see our ADU Handbook: ADU Handbook, pp. 13-14.* • As noted, Planning specifically consulted with HCD on this issue and increased the applicable size limitation for new construction ADUs from 850 square feet to 1,200 square feet. **County Planning Recommendation:** Based on previously received HCD guidance, retain the max. size limit of 1,200 sq. ft for detached ADUs on lots with multifamily dwellings. The ADU Handbook does not address this issue. Also note that the County allows these new detached ADUs to be developed as a duplex.
5	**Section 8107-1.7.4 (d)(5) – *Detachment Requirement* –** The Ordinance states that detached units "must be detached from the	• Comment is consistent with ADU law.

	HCD COMMENT	RESPONSE FROM PLANNING DIVISION
	existing or proposed multifamily dwelling and from other accessory structures." However, Government Code section 65852.2, subdivision (e)(1)(D), only requires that such units are "detached from that multifamily dwelling…." The subdivision does not require that the ADU be detached from other accessory structures; therefore, the section, as written, is more stringent than State ADU Law. The County must remove the phrase "and from other accessory structures."	**County Planning Recommendation:** Accept this interpretation from HCD, and revise Sec. 8107-1.7.4(d)(5) to read as follows: "(5) Detached ADUs may be attached to each other, but must be detached from the existing or proposed multifamily dwelling ~~and from other accessory structures on the lot~~."
6	**Section 8107-1.7.5 (h)(3) – *Converted Size Maximums* –** The Ordinance requires that ADUs within converted spaces "[do] not exceed the size maximums for attached or detached ADUs…." ADUs that are created from existing space of single-family dwellings are created pursuant to Government Code section 65852.2, subdivision (e). Local design standards provided by the Ordinance pursuant to subdivisions (a) through (d) may not preclude a unit built subject to subdivision (e). Therefore, no size maximums may apply to any converted unit, whether within the primary dwelling or an accessory structure. The County must remove this reference.	• Comment reflects a misunderstanding of how Section 8107-1.7.5 applies. The structure of the ordinance was explained to HCD on October 11, 2023 outlining the distinction between ADUs authorized by Section 8107-1.7.4 (Gov. Code 65852.2, subd. (e) - Building Permit only ADUs) and those authorized by Section 8107-1.7.5 (ADUs not meeting subd. (e) criteria and subject to development standards consistent with Gov. Code 65852.2, subd. (a), requiring a Zoning Clearance.) • Section 8107-1.7.5 does not apply to Government Code section 65852.2, subdivision (e) ADUs. • Section 8107-1.7.5 details the development standards that apply to ADUs not authorized by Section 8107-1.7.4, in other words that section only applies to ADUs that do not qualify for approval with only a building permit pursuant to Government Code section 65852.2, subdivision (e). • Section 8107-1.7.5 does not preclude units built pursuant to Government Code section 65852.2, subdivision (e) as such units are governed by Section 8107-1.7.4 and are not subject to any of the development standards in Section 8107-1.7.5. • Section 8107-1.7.5 primarily applies to ADUs in the OS and AE zone – which are not a "residential or mixed-use" zone in the context of the County's Ordinance. **County Planning Recommendation:** Retain section as is based on clarifications and distinctions provided to HCD on October 11, 2023 between Sec. 8107-1.7.4 and 8107-1.7.5. No revisions are necessary.

	HCD COMMENT	RESPONSE FROM PLANNING DIVISION
7	**Section 8107-1.7.5 (i)(1) – *Design Requirements* –** The Ordinance states, "No accessory structure shall be attached to a detached ADU unless the combined total floor area… does not exceed the allowable size." However, adjacency to an accessory structure is a local design requirement that may not preclude units subject to Government Code section 65852.2, subdivision (e). Therefore, the County must note the exceptions or remove this section.	• Comment reflects a misunderstanding of how Section 8107-1.7.5 applies. • Section 8107-1.7.5 does not preclude units built pursuant to Government Code section 65852.2, subdivision (e) as such units are governed by Section 8107-1.7.4 and are not subject to any of the development standards in Section 8107-1.7.5. **County Planning Recommendation:** Retain section as is based on clarifications and distinctions provided to HCD on October 11, 2023 between Sec. 8107-1.7.4 and 8107-1.7.5. No revisions are necessary.
8	**Section 8107-1.7.6 (a)(4) – *JADUs with Multi Single Family Homes* –** The Ordinance states, "Lots with multiple detached single-family dwellings are not eligible to have a JADU." However, Government Code section 65852.22, subdivision (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." (Emphasis added.) 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. Please note that this is one JADU per lot, not per single-family home on such a lot. The County must amend the Ordinance to comply with statute.	• Comment conflicts with HCD Guidance, see ADU Handbook (last updated July 2022) at page 3, available at https://www.hcd.ca.gov/sites/default/files/2022-07/ADUHandbookUpdate.pdf, 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. (Gov. Code, § 65852.22, subd. (a)(1).)" **County Planning Recommendation –** HCD's Comment contradicts HCD Guidance in the Handbook. HCD staff provided additional information during meeting on October 11, 2023, that a new handbook will be published in Jan 2024, which will allow for one JADU on a lot with multiple single-family dwellings. County will revise language according to the updated handbook once published.
9	**Section 8107-1.7.7(b)(2) – *Zoning Clearance*** – The Ordinance requires a "ministerial Zoning Clearance" if a proposed ADU does not meet the standards of Section 8107-1.7.4. However, Government Code section 65852.2, subdivision (c)(2)(C), prohibits "[a]ny requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a	• Comment appears to conflict with or misapply Gov. Code section 65852.2, subdivision (c)(2)(C) which, as to a ministerial Zoning Clearance requirement, must be read as prohibiting a local agency from establishing by ordinance: "Any requirement for a zoning clearance or separate zoning review … that does not permit at least an 800 square foot accessory dwelling

	HCD COMMENT	RESPONSE FROM PLANNING DIVISION
	percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards." (Emphasis added.) The County must amend the Ordinance and remove the zoning clearance requirement.	unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards." • While ADUs subject to Section 8107-1.7.5 require a Zoning Clearance, Section 8107-1.7.5, ADUs that are 850 square feet in size are expressly permitted, and in some cases depending on lot size can be more than double that size (up to 1,800 square feet). Moreover, Sec. 8107-1.7.5(j) makes clear that, notwithstanding the application of certain development standards, an ADU that is up to 850 square feet with four foot side and rear setbacks may be built in compliance with all other applicable development standards. • The County's ordinance is more lenient than state law by allowing a broader exception to development standards for ADUs 850 square feet in size. **County Planning Recommendation:** Retain section as is based on clarification provided to HCD on October 11, 2023, where staff explained Section 8107-1.7.5(j), which implements Gov. Code section 65852.2, subdivision (c)(2)(C) and that ADUs 850 square feet and larger are permitted with a Zoning Clearance. No revision is necessary.
10	**Section 8119-1.3.3 (a) – *Placement* –** The Ordinance states, "Buildings, Accessory Dwelling units (ADU) pursuant to Sec. 8107-1.7.5, and other habitable/non-habitable accessory buildings shall be located within the building site per Table 1.3.3(a) below." Table 1.3.3(a) allows ADU placement exclusively in the rear of any primary dwelling. However, Government Code section 65852.2, subdivision (c)(2)(C), prohibits "[a]ny requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and	• Comment reflects a misunderstanding of how Sections 8119-1.3.3 and 8107-1.7.5 apply. • Section 8119-1.3.3 (of the Old Town Saticoy Development Code) specifically provides that: "Buildings, Accessory Dwelling units (ADU) pursuant to Sec. 8107-1.7.5, and other habitable/non-habitable accessory buildings shall be located within the building site per Table 1.3.3(a) below, except that setbacks for ADUs shall be consistent with Sec. 8107-1.7.5. Setbacks are measured as per Sec. 8106-4." • The standard above applies only to ADUs subject to Sec. 8107-1.7.5 that require a Zoning Clearance. ADUs proposed within Old Town Saticoy that do not meet the criteria in Government Code section 65852.2, subd. (e) and Sec. 8107-1.7.4 of the ADU ordinance,

	HCD COMMENT	RESPONSE FROM PLANNING DIVISION
	rear yard setbacks to be constructed in compliance with all other local development standards." (Emphasis added.) Therefore, the Ordinance may not preclude an 800 square-foot unit subject to all other local design standards, and the attached or detached ADU may be located, partially or completely, in the front setback.	are subject to the development standards in Sec. 8107-1.7.5 as well as any applicable standards in the Saticoy Area Plan, including Sec. 8107-1.7.5(j) which provides for an exception to development standards if the standard would preclude construction of at least an 850 square foot ADU with four foot side and rear setbacks. As such, contrary to HCD's comment, the ordinance does not preclude an 800 square foot unit from being partially or completely located in the front setback. Note that "front setback" is specifically listed in Sec. 8107-1.7.5(j) as one of the development standards that will be waived/excepted to allow construction of an 850 square foot unit. Also, Sec. 8119-1.3.3 specifically states that ADU setbacks shall be consistent with Sec. 8107-1.7.5. **County Planning Recommendation:** Retain section as is based on clarification provided to HCD on October 11, 2023, where staff explained that Section 8107-1.7.5, including the exception to development standards pursuant to subdivision (j) applies equally to ADUs in Old Town Saticoy. No revisions are necessary.