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DIVISION OF HOUSING POLICY DEVELOPMENT
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October 31, 2025

Lisa Plowman, Director
Planning & Development Department
County of Santa Barbara
105 E. Anapamu Street
Santa Barbara, CA 93101

Dear Lisa Plowman,

RE: Review of Santa Barbara County's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, §§ 66310 - 66342) and Senate Bill (SB) 9 Ordinance (Gov. Code, §§ 65852.21; 66411.7)

Thank you for submitting the County of Santa Barbara (County) ADU and SB 9 Ordinance No. 5230 (Ordinance), adopted February 4, 2025, 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 66326, subdivision (a). HCD finds that the County's Ordinance fails to comply with State ADU and SB 9 Laws in the manner noted below. Pursuant to Government Code section 66326, subdivision (b)(1), 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 November 30, 2025.

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

1. *New ADU Legislation* – Please note there is recent ADU Legislation that has passed. The City County should review the changes made to State ADU Law as a result of this legislation. Assembly and Senate Bills (AB and SB) recently passed affecting State ADU Law include:
    - SB 9 (Chapter 510 Statutes of 2025)
    - SB 543 (Chapter 520, Statutes of 2025)
    - AB 130 (Chapter 22, Statutes of 2025)
    - AB 462 (Chapter 491, Statutes of 2025)
    - AB 1154 (Chapter 507, Statutes of 2025)

2. Section 35.42.015 D.2. – *Application Approval or Denial* – The Ordinance states that the local agency "…shall *consider* a Building Permit application... ministerially without discretionary review or hearing within 60 days from the date

a complete application is submitted to the Department." (Emphasis added). However, Government Code section 66317, subdivision (a) requires that local agencies *approve or deny* an ADU application within 60 days of receiving a completed application. The Ordinance merely requires consideration of a permit, not approval or denial. The County is required to issue approval, or a denial with a full set of comments on how to remedy the application, within 60 days of receiving a completed application. Therefore, the County must amend this section to indicate approval or denial within 60 days and if denied, that a complete set of comments will be provided.

3. Section 35.42.015 E. – *Other necessary approvals* – The Ordinance states that ADUs that comply with this section require only "Building Permit and *any other necessary approval*." HCD recognizes that other post entitlement permits may sometimes be required. However, "any other necessary approvals" must be objective, must be applied ministerially, and must be approved within the timelines laid out in the law.[1] The County should amend its ordinance to expressly comply with these restrictions.

4. Sections 35.42.015 E.2.d, E.3.e, E.5.e. – *Front Setbacks* – The Ordinance imposes front setback regulations on all ADUs in this section, stating that ADUs "shall comply with the front setback requirements of the applicable zone, provided that this standard allows an accessory dwelling unit of up to 800 square feet to be constructed on the lot." However, Government Code section 66323, subdivision (b) states, "A local agency shall not impose any objective development or design standard that is not authorized by this section upon any accessory dwelling unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a)." Government Code section 66323, subdivision (a) does not provide for front setbacks. Therefore, the County must remove these front setback provisions in the portion of the Ordinance governing 66323 units. HCD also notes that we have received several public inquiries for technical assistance regarding the County's application of this section.

5. Section 35.42.015 E.5.c. – *Multifamily Detached ADU Maximum Size* – The Ordinance imposes a 1,200 square foot maximum floor area for a detached ADU on a multifamily lot. However, Government Code section 66323, subdivision (b) states, "A local agency shall not impose any objective development or design standard that is not authorized by this section upon any accessory dwelling unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a)." Government Code section 66323, subdivision (a)(4) does not include a maximum size restriction. Therefore, the County must amend the ordinance to remove the restriction on maximum size for detached ADUs on lots with existing or proposed multifamily dwellings.
6. Section 35.42.015 E.5.d. – *Maximum height* – The Ordinance allows an ADU in this section to be up to a height of 18 feet when "…within one-half of one mile

[1] Gov. Code, § 66317.

walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined…" However, Government Code section 66321, subdivision (b)(4) states, in addition to 18 feet, "A local agency shall also allow an additional two feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit." The County must amend the ordinance to allow an additional two feet in roof pitch.

7. Section 35.42.015 F.3.b.1. & 3. – *Architectural Design* – The Ordinance states, "The design of an accessory dwelling unit that will be attached to an existing building shall reflect the exterior appearance and architectural style of the existing building to which it is attached and use the same or comparable exterior materials, roof covering, colors, and design for trim, windows, roof pitch, and other exterior physical features. However, Government Code section 66314, subdivision (b)(1) requires ordinances to "Impose objective standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources." The use of the phrase "reflect the exterior appearance and architectural style" as well as "comparable exterior materials" and "comparable to existing landscaping," are subjective. The County must amend the ordinance to remove all subjective terms and include only objective standards.

8. Section 35.42.015 F.7. – *Historic Resources* – The Ordinance restricts ADUs when an ADU is on a lot with "…a structure designated, or determined to be eligible for designation as a County Historic Landmark or County Place of Historic Merit unless the proposed accessory dwelling unit follows the Secretary of the Interior's Standards for the Treatment of Historic Properties." However, Government Code section 66314, subdivision (b)(1) states that ADU ordinances may "Impose objective standards on accessory dwelling units that include…standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources." Therefore, the use of a local historic register such as County historic resources would be inconsistent with State ADU Law. The County must amend the ordinance to remove this reference.

9. Section 35.42.015 F.8. – *Cultural Resources* – The Ordinance requires that ADUs be located at least fifty feet from the site boundary of "…any archaeological resources or tribal cultural resources…" While HCD appreciates the County's consideration of safeguarding cultural resources, Government Code section 66314, subdivision (b)(1), states that ADU ordinances may "Impose objective standards on accessory dwelling units". The preparation of a written assessment and tribal recommendation are subjective standards, in that they require personal or subjective judgment, are not uniformly verifiable by reference to an external and uniform benchmark or criterion, and are not

knowable by the applicant prior to submittal.[2] Therefore, the County must amend the Ordinance to remove this language.

10. Section 35.42.010 F.11.b. – *Parking for New Construction ADUs* – While the Ordinance properly exempts ADUs from parking requirements, it does not provide for off-street parking in setback areas for attached ADUs. State ADU Law states, "Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions."[3] The Ordinance does not contain a provision for parking in certain setbacks. Therefore, the County must amend the Ordinance to include all parking exceptions provided by State ADU Law.

11. Section 35.42.015 G.3. – *Efficiency Kitchen* – The Ordinance requires an efficiency kitchen to have, "A cooking facility with appliances, including at least a two-burner stove, sink, and freestanding refrigerator." However, Government Code section 66333, subdivision (f) requires that a JADU ordinance shall only require an efficiency kitchen to include, "(A) A cooking facility with appliances. (B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit." The term "with appliances" is a broad term and does not permit a local ordinance to specify the specific appliances, including a "stove" and a "refrigerator." These appliances are amenities more commonly found within a full kitchen, and therefore the County's requirements are more restrictive than State ADU Law allows. The County must amend the Ordinance to remove these additional requirements.

12. Section 35.42.015.G.5. – *Limitations on JADU location* – The Ordinance states, "The junior accessory dwelling unit shall not be located within any other attached or detached accessory structure." However, Government Code section 66333, subd. (d) states, in relevant part, "enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence." Therefore, the County's Ordinance is too restrictive regarding where JADUs can be located. The County must amend the Ordinance to clarify that attached garages function as enclosed uses.

13. Section 35.42.015.H.6. – *ADU Conveyance* – The Ordinance states that, "Except as provided in Government Code Section 65852.26," ADUs and JADUs cannot be sold separately. However, this section of government Code has been re-numbered to section 66341. The County should update this code section to refer to existing law.

14. *Missing Required Standards* – State ADU Law requires an ADU ordinance to include specific contents, but the Ordinance is missing some of the required

[2] Gov. Code § 66313, subd. (i).
[3] Gov. Code, § 66314, subd. (d)(10)(B).

contents. These include the standards described in Government Code section 66314, subdivision (d)(8) regarding changes in occupancy, subdivision (d)(12) regarding exemptions from fire sprinkler requirements, subdivision (e) regarding demolition of a detached garage, and subdivision (f) regarding demolition of a detached garage. The County must amend the Ordinance to include these missing requirements.

15. *ADU Amnesty Program* – State ADU Law requires local agencies to provide for the permitting of certain unpermitted ADUs and JADUs under Government Code section 66332. Specifically, as of January 1, 2025, "A local agency shall inform the public about the provisions of" section 66332,"…through public information resources, including permit checklists and the local agency's internet website." [4] However, HCD could not locate public information resources on the agency's website nor in the agency's online county code archive regarding the implementation of section 66332. The County must amend the Ordinance to address unpermitted ADU and JADU legalization as required under State ADU Law.

16. *Preapproved ADU Plans – Government Code section 65852.27 requires* local agencies to have a program for the preapproval of ADU plans by January 1, 2025. The Ordinance and County Code is silent on this topic. The County should implement a program for the preapproval of ADU plans and should consider amending the Ordinance to address how the program will be implemented.

Santa Barbara County's SB 9 (Chapter 162, Statutes of 2021) Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State SB 9 Law as follows:

1. Section 35.42.268.B – *Applicability* – The ordinance states, "Up to two principal dwelling units and urban lot splits may be allowed on a single-family residential zoned lot within an urbanized area or urban cluster as designated by the U.S. Census Bureau in compliance with the table below." This provision could be construed to allow two SB 9 urban lot splits on single-family residential zoned lot, which is prohibited by Government Code section 66411.7, subdivision (a)(3)(F). The County must amend the Ordinance to clarify that one urban lot split is permitted per lot.

2. Section 35.42.268.B – *Applicability* – The table referenced in this section does not include the Agricultural Zone. The County's Agricultural Zone is a Single-Family Residential Zone for the purposes of SB 9. While some zones are readily identifiable as single-family residential zones, for example by a title (e.g., R-1 "Single- Family Residential"), others may not be so obvious. The County's Agricultural zoning district constitutes a single-family residential zone for the purpose of SB 9 since the primary purpose is single-family residential uses. The

[4] Gov. Code, § 66332, subd. (d).

County must amend the Ordinance to add the Agricultural Zone to the table of Single-Family Residential Zones.

3. Section 35.42.268.D.4 – *Development impact mitigation fees* – The ordinance states, "The applicant shall pay development impact mitigation fees in compliance with ordinances and/or resolutions in effect at the time the fees are paid. The amount of the required fee shall be determined by adopted fee resolutions and ordinance and applicable law in effect when paid, provided that the fee is charged proportionately in relation to the square footage of the principal dwelling unit(s)." SB 9 states, "Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section."[5] Quimby fees constitute a requirement for the construction of "offsite improvements" as contained in Government Code section 66411.7, subdivision (b)(3).[6] Therefore, the County must amend the code to exempt Urban Lot Splits from Quimby fees.

4. Section 35.42.268.D.6 – *Variances and Modifications* – The Ordinance states, "Variances and Modifications shall not be granted for principal dwelling unit(s) developed pursuant to this Section." This provision does not appear to apply to the underlying zone. Pursuant to Government Code section 65852.21, subdivision (b)(3), the County must amend the Ordinance to remove standards applicable to SB 9 developments that do not apply to the underlying zone.

5. Section 35.42.268.D.8 – *Unpermitted existing development* – The Ordinance states, "For purposes of this Section 35.42.268, improvements to unpermitted existing development to accommodate a principal dwelling unit shall be considered new development. This provision does not appear to apply to the underlying zone. Pursuant to Government Code section 65852.21, subdivision (b)(3), the County must amend the Ordinance to remove standards applicable to SB 9 developments that do not apply to the underlying zone.

6. Section 35.42.268.D.9 – *Noticing* – The Ordinance states, "A posted notice fulfilling the requirements of Sections 35.106.020.A.2 and 35.106.080 shall be required for a Zoning Clearance permit and Tentative Parcel Map within 15 days of an application that is deemed eligible for SB 9 processing and remain posted until permit approval." This provision does not appear to apply to the underlying zone nor to be related to the design or to improvements of a parcel. Pursuant to Government Code sections 65852.21, subdivision (b)(3) and 66411.7, subdivision (c)(1), the County must amend the code to remove standards applicable to SB 9 developments that do not apply to the underlying zone and do not apply to improvements not related to the design or improvements of a parcel.

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[5] Gov. Code § 66411.7, subd. (b)(3).

[6] See HCD's Technical Assistance Letter to Menlo Park, found at https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/menlo-park-hau-638-ta-071124.pdf

7. Section 35.42.268.D.10 – *Affordability requirement* – The Ordinance states, "At least one of the units in each two-unit residential development, or at least one unit on any lot created pursuant to an urban lot split, must be constructed and offered for sale or for rent as a moderate, low, or very low-income unit, restricted for occupancy by a moderate, low or very low-income household, as defined in and pursuant to applicable requirements of Chapter 46, Affordable Housing Enforcement, of the County Code." Pursuant to Government Code sections 65852.21, subdivision (b)(3) and 66411.7, subdivision (c)(1), the County cannot apply standards to SB 9 developments that do not apply to the underlying zone and do not apply to improvements not related to the design or improvements of a parcel. This provision does not exist in the underlying zone and is not related to the improvement of a parcel. Therefore, the County must amend the code to remove this standard.

8. Section 35.42.268.E.1.a – *Floor area/unit size* – The Ordinance states, "The principal dwelling unit shall be subject to a maximum unit size as identified in the table below, provided the combined unit size for two principal dwelling units (existing and/or proposed) shall not exceed a 0.4 floor area ratio or 5,000 gross square feet, whichever is less. For projects in the Summerland Community Plan Overlay, the maximum floor area limits established in Section 35.28.210 shall continue to apply to the lot as a whole." This standard and the associated table do not exist in the underlying zone. Pursuant to Government Code section 65852.21, subdivision (b)(3) the County must amend the Ordinance to remove this standard.

9. Section 35.42.268.E.1.c – *Attached unit* – The Ordinance states, "Notwithstanding the maximum floor area provided above, a new unit that is attached to, and increases the size of, an existing residential unit shall not exceed the floor area of the existing residential unit." This standard does not exist in the underlying zone. Pursuant to Government Code section 65852.21, subdivision (b)(3) the County must amend the Ordinance to remove this standard.

10. Section 35.42.268.E.1.e – *Attached architectural feature* – The Ordinance states, "An attached, un-inhabitable architectural feature (e.g., covered entry, covered patio, deck, balcony, etc.) may be allowed in addition to the floor area of the new dwelling unit. The architectural feature(s) shall be subordinate to the new dwelling unit and limited to a cumulative square footage total of 25% of the floor area of the new dwelling unit. The square footage calculation shall be measured as the roof area (covered) or the footprint (uncovered)." This provision does not appear to apply to the underlying zone. Pursuant to Government Code section 65852.21, subdivision (b)(3), the County cannot apply standards to SB 9 developments that do not apply to the underlying zone. Therefore, the County must amend the Ordinance to remove this standard.

11. Section 35.42.268.E.2.a.1 – *Side and rear setbacks* – The Ordinance states, "Side and rear setbacks may be reduced to a minimum of four feet for single story development up to a maximum of 16 feet in height or if necessary to accommodate up to two 800 square foot principal dwelling units." This provision does not apply to the underlying zone. Pursuant to Government Code section 65852.21, subdivision (b)(3), the County cannot apply standards to SB 9 developments that do not apply to the underlying zone and must amend the Ordinance to remove this standard.

12. Section 35.42.268.E.2.a.2 – *Side and rear setbacks, Interior Lots* – The Ordinance states, "Standard interior lot setbacks apply unless they preclude the development of up to two 800 square foot units with minimum four-foot setbacks, in which case the total setback area shall equal that of a standard lot." The standard setback in the underlying zone cannot be applied to SB 9 units unless it is more permissive than what SB 9 requires. Government Code section 65852.21, subsection (b)(1)(B)(i) states "…[N]o setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure. Additionally, subsection (b)(1)(B)(ii) states "…in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines." Pursuant to Government Code section 65852.21, subdivision (b)(2)(B), the County must amend the Ordinance to specify a setback of up to four feet from the side and rear lot line, except for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure, where no setback is required.

13. Section 35.42.268.E.2.a.3 – *Side and rear setbacks* – The Ordinance states, "Setbacks shall be clear from ground to sky." Government Code section 65852.21, subdivision (b)(3) states, "A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that do not apply uniformly to development within the underlying zone. This subdivision shall not prevent a local agency from adopting or imposing objective zoning standards, objective subdivision standards, and objective design standards on development authorized by this section if those standards are more permissive than applicable standards within the underlying zone." This provision does not appear to apply to the underlying zone. Therefore, the County must amend the Ordinance to remove this standard.

14. Section 35.42.268.E.2.a.4 – *Side and rear setbacks* – The Ordinance states, "No setback modification or variable setback shall be permitted." Government Code section 65852.21, subdivision (b)(3) states, "A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that do not apply uniformly to development within the underlying zone. This subdivision shall not prevent a local agency from adopting or imposing objective zoning standards, objective subdivision standards, and objective design standards on development authorized by this section if those standards are more permissive than applicable standards within the underlying zone." This provision

does not appear to apply to the underlying zone and therefore the County must amend the Ordinance to remove this standard.

15. Section 35.42.268.E.3 – *Maximum height* – The ordinance states, "All new principal dwellings shall comply with the requirements below and all other applicable height regulations of this Development Code further limiting height, including ridgeline/hillside development guidelines (Section 35.62.040). Where conflicts exist between the height limits below and other sections of this Development Code, the more restrictive height regulations shall prevail." This standard does not exist in the underlying zone and therefore the County must amend the Ordinance to remove this standard.

16. *Objective Standards* – Government Code section 65852.21, subdivision (b)(1) permits an agency to impose objective standards as defined in section 65852.21, subdivision (j)(2): "The terms "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal." If a standard is objective, staff should not have to consult with a design professional. Only objective standards, as defined, may be applied. Additionally, terms found in the following findings, such as "same architectural design," "match the architectural style," "designed and articulated with consistent details," and "create architectural interest" are not objective and must be removed.

17. Section 35.42.268.F – *Objective Standards: Building Design* – The ordinance states, "New construction, additions, and building conversions involving exterior alterations to create a new principal dwelling unit shall comply with the following objective design standards. Projects that comply with these standards shall not be subject to separate Design Review approval under Section 35.82.070 (Design Review). Department staff may consult with a Board of Architectural Review Chair, designee, or other design professional to assist in determining a project's compliance with the objective design standards contained in this Section. A project that does not comply with these objective design standards, may be permitted under this Section, if approved by the applicable Board of Architectural Review under Section 35.82.070 (Design Review) provided that the applicant requests a delay and tolls the 60-day processing time period specified in Subsection D.1.a, above, until final design review approval." The County must amend the Ordinance to remove all subjective standards.

18. Section 35.42.268.E.1.d – *Objective Standards: Attached garage or carport* – The Ordinance states, "Up to 400 additional square feet may be permitted for an attached garage or carport, compliant with standard setbacks and with the same architectural design. Any other accessory development (e.g. pools, detached garages, cabanas, etc.) shall be subject to standard permit requirements." The County must amend the Ordinance to remove all subjective standards.

19. Section 35.42.268.G.5 – *Objective Standards: Environmentally sensitive habitat areas* – The ordinance states, “The development of a principal dwelling unit shall comply with the objective requirements of Section 35.28.100 (Environmentally Sensitive Habitat Area Overlay Zone).” Although the permit and processing requirements applicable to the various environmentally sensitive habitat areas specified in section 35.28.100 appear to be objective, it is not clear if the determination of environmentally sensitive habitat area *boundaries*, made by the Director, is based solely on objective criteria (the zoning map) or if subjective criteria are involved in this determination. Therefore, in efforts to provide knowable and objective standards, the County must specify what objective criteria the Director uses to determine if a proposed development is located in an environmentally sensitive habitat area.

20. Section 35.42.268.G.6 – *Historic resources* – The ordinance states, ” principal dwelling unit shall not be located within, attached to, or located on the same lot as a structure listed in, or determined to be eligible for listing in the California Register of Historical Resources or the National Register of Historic Places, or a structure designated, or determined to be eligible for designation as a County Historic Landmark or County Place of Historic Merit unless the proposed principal dwelling unit follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (U.S. Department of the Interior, National Park Service, 2017) or the Secretary of the Interior's Standards for Rehabilitation (36 CFR Part 67, 1990) and Guidelines for Rehabilitating Historic Buildings (Weeks and Grimmer, 1995), as may be amended. If a detached principal dwelling unit is proposed to be located on the same lot as a historic or potentially historic structure described above, the applicant shall submit a written assessment from a Department-approved historian confirming that the proposed principal dwelling unit shall be in conformance with this requirement.” Government Code section 65852.21, subdivision (a)(5) states, “The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.” Government Code section 66411.7, subdivision (3)(e) states, “The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.” The County Code is more restrictive than SB 9 in that it includes structures that are “… determined to be eligible for,” in addition to structures that are “listed in” the relevant Registers. The County must amend this section to mirror state law.

21. Section 35.42.268.G.7 – *Archaeological resources and tribal cultural resources* – The ordinance states, “A new construction attached or detached principal dwelling shall be located at least 50 feet from the site boundaries of any

archaeological resources or tribal cultural resources, unless a written assessment or a California Native American tribe recommends a greater buffer distance. Applicants shall submit a written assessment of any (1) archaeological resources that may qualify as "historical resources" as defined in CEQA Guidelines Section 15064.5(a), or (2) sites, features, cultural landscapes, sacred places, objects, or resources that may qualify as "tribal cultural resources" as defined in Public Resources Code Section 21074 that are located within 100 feet of the proposed principal dwelling unit. The written assessment shall be prepared by a Department-approved archaeologist or other qualified professional and shall define the characteristics and site boundaries of the archaeological resources or tribal cultural resources." Government Code 65852.21, subdivision (j)(2) states, "The terms "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal…." Government Code 66411.7, subdivision (m)(1) states, "Objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal…." This section appears to include requirements that are not objective, not uniformly verifiable by reference to an external benchmark, and not knowable prior to submittal. Therefore, the County must amend this standard to comply with state law or remove it entirely.

22. Section 35.42.268.H.2 – *Adequate services* – The ordinance states, "Development of up to two principal dwelling units on a parcel and urban lot splits shall demonstrate provision of adequate services, including water, sanitary, and access, including for newly created lots even if no development is currently proposed. Water meters and sewage connections shall be separate for units residing on separate parcels." SB 9 states, "Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section." The County cannot require offsite improvements for urban lot splits where no development is proposed. Pursuant to Government Code section 66411.7, subdivision (b)(3), the County must amend this standard accordingly.

Complaints

Please note that over the past year HCD has received several complaints regarding the County's implementation of its ADU Ordinance, particularly regarding the imposition of front setbacks and approval timelines. HCD also wants to recognize that the County has responded positively and in a spirit of cooperation to such complaints and appreciates the County's patience in implementing frequently changing State ADU Law.

The County has two options in response to this letter.[7] The County can either amend the Ordinance to comply with State ADU Law[8] or adopt the Ordinance without changes and include findings in its resolution adopting the Ordinance that explain the reasons the County believes that the Ordinance complies with State ADU Law despite HCD's findings.[9] If the County fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD must notify the County and may notify the California Office of the Attorney General that the County is in violation of State ADU Law.[10]

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 feel free to contact Jamie Candelaria at Jamie.Candelaria@hcd.ca.gov if you have any questions regarding the County's ADU Ordinance and Brandon Estes, at Brandon.Estes@hcd.ca.gov regarding the County's SB 9 Ordinance.

Sincerely,

Jamie Candelaria

Jamie Candelaria
Section Chief, ADU Policy
Housing Policy Development Division

[7] Gov. Code, § 66326, subd. (c)(1).
[8] Gov. Code, § 66326, subd. (b)(2)(A).
[9] Gov. Code, § 66326, subd. (b)(2)(B).
[10] Gov. Code, § 66326, subd. (c)(1).