

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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May 12, 2023

Antonio Gardea, Senior Planner
Planning Department
City of Redondo Beach
415 Diamond St, Door 2
Redondo Beach, CA 90277

Dear Antonio Gardea:

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

Thank you for submitting the City of Redondo Beach (City) accessory dwelling unit (ADU) Ordinance No. 3210-20 (Ordinance), adopted January 12, 2021 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 City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than June 9, 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 10-2.402 (a) Definitions – *JADU Definition* – The Ordinance defines a junior accessory dwelling unit (JADU) as "...a unit that is no more than 500 square feet in size and is contained entirely within a single-family residence." However, Government Code section 65852.22, subdivision (a)(4), states that "enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence" and may be converted to a JADU. The City must amend the Ordinance to include attached garages or other enclosed uses.
- 10-2.1506 (a)(3)(a) – *Approval* – The Ordinance states, "the Community Development Director and Chief Building Officer shall act on all required permits... within 60 days..." (emphasis added). However, effective January 1, 2023, Government Code section 65852.2, subdivision (a)(3) requires that the permitting agency "shall either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application..." (emphasis added).

Therefore, pursuant to the subdivision, the City must approve or deny completed applications within 60 days. The City must amend the Ordinance to comply with State ADU Law.

- 10-2.1506 (a)(10) – *Owner Occupancy* – The Ordinance states “a covenant shall be recorded that specifies that no more than one of the units may be rented.” However, as State statute permits multiple ADUs and one JADU with single-family dwellings, as well as multiple ADUs with multifamily dwellings, limiting the rental to only one unit violates State statute. Government Code, section 65852.2, subdivision (a)(8), establishes the maximum standards that local agencies shall use to evaluate a proposed ADU. No additional standards, other than those provided in the subdivision, shall be used or imposed, except that a local agency may require that an ADU be rented for longer than 30 days. The subdivision does not limit rentals to only one ADU. Additionally, standards adopted by a local agency, pursuant to subdivisions (a)-(d), may not be imposed on ADUs and JADUs created pursuant to subdivision (e)(1) Therefore, the City must remove this provision.
- 10-2.1506 (a)(11) – *Application Sequence* – The Ordinance states “Where an accessory dwelling unit was constructed on a lot with a proposed or existing multifamily dwelling under Subsection (c)(2), an application may not thereafter be submitted under Subsection (b) for a streamlined accessory dwelling unit on the same lot.” This appears to be a cap on the number of permitted units. However, Government Code section 65852.2, subdivision (a), permits one unit to be ministerially approved with an existing or proposed primary dwelling unit, either multifamily or single-family. Subsequent to this allowance in subdivision (a), subdivision (e) begins with “notwithstanding subdivisions (a) through (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-used zone to create any of the following...” before listing the four categories of subdivision (e) units.

The use of the term “any” followed by an enumeration of by-right ADU types permitted indicates that any of these ADU types can be combined on a lot. HCD notes that the Legislature, in creating the list, did not use “or” nor “one of” to indicate only one or another would be applicable to the exclusion of either the different categories of units within subdivision (e) or the unit types between subdivisions (a) and (e). Therefore, the City must ministerially permit applications subject to subdivision (e) regardless of the prior existence of a unit subject to subdivision (a).

- 10-2.1506 (b)(1)(a) – *Fire Sprinklers* – The Ordinance creates fire safety regulations, noting that ADUs and JADUs “...shall comply with building codes, including, but not limited to, fire rating requirements.” It is worth noting that current Government Code section 65852.2, subdivision (e)(3), states “The construction of an accessory dwelling unit shall not trigger a requirement for fire

sprinklers to be installed in the existing multifamily dwelling.” The City should update the language here to note this recent change to state law.

- 10-2.1506 (b)(1)(b) – *Separate Sale* – The Ordinance states “neither the primary dwelling nor the accessory dwelling unit... shall be sold or otherwise conveyed separately from the other unit.” However, Government Code section 65852.26 creates a narrow exception to allow separate conveyance of an ADU to a qualified buyer if the property was built or developed by a qualified nonprofit corporation, among other things. The City must amend the Ordinance to note the exception.
- 10-2.1506 (b)(2)(d) – *Detached Structures* – The Ordinance requires that converted units in accessory structures with single-family primary dwellings be within a “physically attached accessory structure.” However, Government Code section 65852.2, subdivision (e)(1)(A)(i), requires that “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....” The statute does not distinguish between attached or detached accessory structures. If the ADU is created within an existing accessory structure, regardless of whether it is attached, that ADU must be approved. The City must amend the section to include a reference to detached accessory structures.
- 10-2.1506 (b)(2)(c), (b)(3)(c) – *Unit Mixture Allowance* – The Ordinance requires in several categories of “streamlined” units that “the Lot on which the accessory dwelling unit is located contains no more than one accessory dwelling unit or junior accessory dwelling unit.” However, Government Code section 65852.2, subdivision (e)(1)(A), allows for “[o]ne accessory dwelling unit **and** one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling....” (Emphasis added.) Further, as indicated above, Government Code section 65852.2, subdivision (e), begins with the phrase “notwithstanding subdivisions (a) through (d), inclusive...” before requiring ministerial approval of any unit subject to the enumerated categories. Therefore, the categories of subdivisions (e)(1)(A) and (e)(1)(B), which pertain to single-family primary dwellings, must be approved in concert with one another; the categories of subdivisions (e)(1)(C) and (e)(1)(D), which pertain to multifamily primary dwellings, must be approved in concert with one another. Furthermore, the prior existence or approval of a unit subject to subdivision (a) cannot preclude the ministerial approval of a unit subject to subdivision (e). Therefore, the City must remove these sections.
- 10-2.1506 (b)(5)(d) – *Existing Dwelling* – The Ordinance specifies that as a condition for approval of detached, new construction ADUs under section (b) of the Ordinance that “The lot on which the accessory dwelling unit is located contains an existing two-family or multifamily dwelling.” However, Government

Code section 65852.2, subdivision (e)(1)(D), states that the ADUs under this subdivision may also be approved with a **proposed** multifamily dwelling. Therefore, the City must amend the Ordinance to add this provision.

- 10-2.1506 (b)(5)(d), (c)(4)(d), (c)(6) – *Height* – The Ordinance mentions a height limit of 16 feet in several cases. However, effective January 1, 2023, Government Code section 65852.2, subdivision (c)(2)(D), includes permissible height maximums of 16, 18, 20, and 25 feet, depending on certain circumstances. The City should review recent changes to state statute and must revise the height limitations accordingly.

In response to the findings in this letter, and pursuant to Government Code section 65852.2, subdivision (h)(2)(B), the City must either amend the Ordinance to comply with State ADU Law or adopt the Ordinance without changes. Should the City choose to adopt the Ordinance without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinance complies with state ADU Law despite the findings made by HCD. Accordingly, the City'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 City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD may notify the City and the California Office of the Attorney General that the City is in violation of State ADU Law.

Additionally, HCD has been made aware of the City's approval and then immediate denial of ADU permits for two ADUs (one pursuant to Government Code section 65852.2, subdivision (e), and one pursuant to subdivision (a)) at 2603 Curtis Avenue. The denial stems from violative language in the Ordinance as addressed in the finding above under "Unit Mixture." Provided that they satisfy state requirements, the units as initially approved must be ministerially permitted. The City's response should include a proposed timeline for corrective actions to this specific situation.

HCD appreciates the City's efforts provided in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please contact Mike Van Gorder, of our staff, at (916) 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,



Shannan West
Housing Accountability Unit Chief