

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

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March 3, 2023

Alice Tieu, Associate Planner
Community Development Department
City of Westminster
8200 Westminster Blvd.
Westminster, CA 92683

Dear Alice Tieu:

**RE: Review of the City of Westminster's Accessory Dwelling Unit (ADU)
Ordinance under State ADU Law (Gov. Code, § 65852.2)**

Thank you for submitting the City of Westminster's (City) ADU ordinance, No. 2572, (Ordinance) adopted March 24, 2021, to the California Department of Housing and Community Development (HCD). HCD has reviewed the Ordinance and is submitting these written findings pursuant to Government Code section 65852.2, subdivision (h). HCD has determined that the Ordinance does not comply with section 65852.2 in the manner noted below. Under the statute, the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these finding no later than March 31, 2023.

The adopted Ordinance meets many statutory requirements. However, the Ordinance is deficient in several respects and must be revised to comply with State ADU Law (Gov. Code, § 65852.2) as follows:

- **Section 2.17.210.010 – Residential Zoning District Land Uses and Permit Requirements** – The City's listing of zones in Table 2-2 appears to be more restrictive than what is allowed in State ADU Law. Specifically, the Ordinance should be revised to allow ADUs in all areas zoned to allow single-family, multifamily dwelling, or mixed uses. (Government Code, § 65852.2, subdivision (a)(1) and (a)(1)(D)(ii).) HCD has not reviewed the entirety of the City's municipal code but notes that some commercial areas, for instance, appear to allow mixed residential uses. In response to this letter, please confirm that the City has reviewed its code and amended its Ordinance as appropriate or that there are no other zones elsewhere in the City that allow single-family or multifamily uses.
- **Section 4.17.400.135 B.3.a – Number of ADUs** – The Ordinance states that for lots with an existing or proposed single-family dwelling, one ADU may be on the lot. However, Government Code section 65852.2, subdivision (e)(1), states that a

local agency shall ministerially approve an application to create any of the following ADUs listed from subdivision (e)(1)(A) through (D). Subdivision (e)(1)(A) allows for the creation of one ADU and one Junior ADU (JADU) within an existing or proposed space of the single-family dwelling, and subdivision (e)(1)(B) allows for one detached 800 square foot ADU with a proposed or existing single-family dwelling. The City must amend its Ordinance to allow for each as well a combination of subdivision (e)(1)(A) and (B) ADUs.

- *Section 4.17.400.135.B.4.a. and b. and B.13 – ADU Height* – The Ordinance cites the maximum height for detached and attached ADUs with single-family and multifamily dwellings at 16 feet. However, ADU statute restricts local agencies from requiring the height of attached and detached ADUs, to be less than either 16, 18, or 25 feet pursuant to Government Code section 65852.2, subdivisions (c)(2)(D) and (e)(1)(B)(ii). The minimum height limit of detached ADUs increased to 18 feet for detached ADUs that are within ½ mile walking distance of a major transit stop or a high-quality transit corridor, and the maximum height requirement for attached ADUs was increased to 25 feet, or up to the height of the primary dwelling unit. Moreover, a local agency shall also allow an additional two feet in height to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit, per Government Code section 65852.2, subdivision (c)(2)(D)(ii). Therefore, the City must amend the Ordinance to allow for the maximum height permitted in State ADU Law.
- *Section 4.17.400.135.B.19 – Single Family Dwelling* – The Ordinance states that “on a lot with a proposed single-family dwelling...up to one detached ADU may be constructed, or one ADU may be constructed within the single-family residence.” However, Government Code section 65852.2, subdivision (e)(1), states that a local agency shall ministerially approve an application to create any of the following ADUs listed from subdivision (e)(1)(A) through (D). Subdivision (e)(1)(A) allows for the creation of one ADU and one JADU within an existing or proposed space of the single-family dwelling, and subdivision (e)(1)(B) allows for one detached ADU. The City must amend its ordinance to allow for a combination of subdivision (e)(1)(A) and (B) ADUs.
- *Section 4.17.400.135.C.4 – Zone* – The Ordinance states that “a JADU must be within a residential or mixed zone.” However, Government Code section 65852.22 states that a local agency “limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.” Therefore, the City must amend the Ordinance to allow for JADUs only in residential lots zoned for single-family residences.

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.

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 feel free to contact Mike VanGorder, of our staff, at (916) 776-7541 or at Mike.VanGorder@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name "Shannan" and the last name "West" clearly distinguishable.

Shannan West
Housing Accountability Unit Chief

cc: Steve Ratkay, AICP, Planning Manager