

Katherine Douglas

Public Comment - Closed Session

From: Jana Zimmer <zimmerccc@gmail.com>
Sent: Friday, June 19, 2026 11:47 AM
To: sbcob; Katherine Douglas; Mona Miyasato; Garrett Huff; Bob Nelson
Subject: Public Comment 6/23/2026 re: Zimmer v County
Attachments: Offer of June 2023.jpg

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Supervisors:

My attorney has made a written offer for Stipulation for entry of Judgment which I understand will be discussed in closed session. I am attaching here the terms of an offer which, I remind you, was made almost *three years ago*, and is in the administrative record at p. 939.

As I tried to explain when I appeared in public comment in response to your new Fire Board rules, this case is not really about fire hazards. My house is five minutes from Fire Station 15, and my lane is wide enough at all locations for passage of a fire truck. There is no evidence to support a denial of this lot split. This case is now about the County staff miscommunicating and misreading the law, and never providing me with the administrative hearing/appeal process required by law so that your Board can hear and evaluate the evidence. That is a fundamental problem which, if not corrected, is going to continue to impair the County's approval and production of housing.

Please keep that in mind as you review the current (and last) offer.

--

Jana Zimmer

(805)705-3784

Finally, I remind you that I have proposed the following, in substance, repeatedly, to resolve this dispute, most of which you appeared to believe, made sense, at our meeting of May 16, 2023 (for which I thank you):

1. I would amend my map (as long as you do not claim a new PSA deadline has been triggered) to include a note that the proposed new lot shall be deed -restricted for only one single family residence, and that upon certificate of occupancy for that new dwelling, I will give up my existing permit for a JADU on my existing lot. This would address any claim that my lot split would result in any cognizable increase in density, as alleged by the Fire Marshal. And the note on the map is more than adequate notice to a purchaser or future builder.
2. I would implement additional frontage improvements in front of my property i.e. paving on the south side (if and only if we agree on the current measure, and if you dispute that I already have met the 15' for my property) ,to the extent allowed under the terms of my easement over Museum property, and only with the consent of the Museum, to be completed prior to occupancy for the residence approved under 22 BDP 00357. *This is in addition to significant frontage improvements I have already made: widening my driveway to 17', widening the lane on the north side by about two feet, and trimming my oaks to the 13' 6" requested by Captain Gray last summer, and which the Fire Marshal fails to acknowledge. I will not perform work for the general public benefit without any evidence that my lot split creates a new impact, and unless and until the residence contemplated for the new lot is actually built, and there is no justification, factual or legal, for the Fire Marshal to require an earlier performance.*

In exchange,

1. The Fire Marshal withdraws their objections to my lot split and withdraws the demands in their letter to me of June 14 , 2023, or P&D and Counsel determine, based on a preponderance of the evidence that the conditions proposed by Fire are legally, environmentally and practically infeasible, that the application is in compliance with all legitimate requirements, and approves the application.
2. Planning and Development expeditiously completes processing of my SB 9 lot split and approves with the same conditions as were imposed on my approved building permit on my ADU, 22 BDP 00357, and no other conditions.
3. Your office and P&D confirm that no other conditions are warranted or will be imposed by any other Department. You are aware that the Surveyor and Fire have both proposed conditions to which we have objected as not authorized under SB 9. There has been no response from Counsel to those objections. To my knowledge, P&D has not received any proposed conditions from any other department, and it is too late under the Permit Streamlining Act to solicit them.
4. Your total fees will be limited to the estimate you provided at the beginning of the application process. (Approximately \$7000, which you already have).

Katherine Douglas

From: Jana Zimmer <zimmerccc@gmail.com>
Sent: Sunday, June 21, 2026 3:03 PM
To: Bob Nelson; sbcob; Joan Hartmann; Laura Capps; Steve Lavagnino; roy.lee@countyofsb.org
Subject: Fwd: Request for consideration in closed session Zimmer v County
Attachments: Settlement documents 6.21.2026.pdf

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Since you will be considering my settlement offer in closed session, and I have never been allowed any appeal to present my case, and you have not considered this case for over a year, I am attaching here a few relevant documents from the record for your consideration of my settlement offer. It is important that you consider (1) that the facts on the ground have changed (for the better), and there is no impairment to fire equipment access to my property, (2) the law has been clarified- both by the Legislature and by HCD such that the Board's original demand of me was clearly unlawful; and (3) the path you are now on will continue to pit fire protection policies against housing. Please note that we addressed these specific points to your Board on June 1 and June 16, 2025. If you would care to give me more than three minutes in public comment I can explain and respond to any questions you may have.

Thank you.

Jana Zimmer

Closed Session



Katherine Douglas *Public Comment - Solomon*

From: Richard Solomon <rcsolomon42@gmail.com>
Sent: Saturday, June 21, 2025 5:33 PM
To: sbcob
Cc: Jana Zimmer
Subject: Public comment item no. 25-00573; Zimmer v. County

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Dear Honorable Supervisors:

I represent Jana Zimmer in the litigation she was compelled to file against the County in January of 2024. I say "compelled" because she was never allowed any appeal of your staff's erroneous actions, in and after 2023, and none of the Board members were willing to meet with her or view the affected property to understand why staff's demands were not only illegal, but physically impossible to fulfill.

She was compelled to file a Tort Claim to preserve her rights and to give you the opportunity to correct your staff's errors. The matter could have been resolved without any payment of damages or fees. One of the purposes of the requirement of a tort claim is to allow the government to consider their position. The tort claim was rejected outright by the Risk Manager, and then by your Board on Nov. 7, 2023.

Ms. Zimmer was then compelled to file litigation because your legal staff refused to consider tolling the statutes of limitations to enable discussion. The matter *still* could have been resolved without payment of damages or fees. Your Board continued to demand that she comply with the conditions we contend were, and are simply illegal.

HCD has now provided an opinion on a key legal issue: whether you can force homeowners to fund or perform offsite improvements in SB 9 applications (which we provided to County Counsel). Therefore, we are convinced that the court will ultimately find that your refusal to process Zimmer's application, and approve it without requiring off-site improvements, were both in error. We are awaiting HCD's analysis of your SB 9 ordinance, of which you failed to give Zimmer notice, despite her obvious interest, and which was adopted when she was in the hospital for quadruple bypass surgery. We contend your ordinance has codified your staff's errors. Staff has claimed their communications about this ordinance are privileged under the Public Records Act.

Now, because of the way this has been handled, there are damages and fees. And they will continue to increase unless the matter is resolved. We will appreciate your careful consideration of our offer of settlement and urge your acceptance. And we request on behalf of other taxpayers and housing providers, that you revise your local ordinance to eliminate its flaws.

Sincerely,

Richard C. Solomon

7/4/25, 11:43 AM

Mail - Ashley Casanova - Outlook

 Outlook

Fwd: You can tell COCO

From: Jana Zimmer <zimmerccc@gmail.com>

Date: Sun 6/29/2025 11:08 AM

To: Ashley Casanova <ashley@andreamancuslaw.com>

From: Jana Zimmer <zimmerccc@gmail.com>

Date: June 16, 2025 at 1:16:14 PM PDT

To: Laura Capps <lcapps@countyofsb.org>, bob.nelson@countyofsb.org, "Hartmann, Joan" <jhartmann@countyofsb.org>, steve.lavagnino@countyofsb.org, roy.lee@countyofsb.org, Jacquelyne Alexander <jalexander@countyofsb.org>

Cc: "Cc:" <cc@countyofsb.org>

Subject: Fwd:

Honorable Supervisors:

I have been trying for two and a half years to resolve a dispute with your executives (Planning Director, Deputy Director, former Fire Marshal, and my former Supervisor). The County granted me a ministerial building permit in 2022 to construct a caregiver unit, so that I can continue to age in place and die in my home of 50 years. They have since refused to process an application for a ministerial SB 9 lot split (so I can finance construction of that same unit), unless I first comply with conditions which are based on a legal position which HCD agrees is incorrect, and despite the fact that I have provided evidence to your new Fire Marshal that I have nevertheless complied (under protest) with their demands, in order to terminate the litigation. The hearing on the merits will not be held until October, 2025. Preparation for that hearing will require enormous additional work and cost to me.

For context, the law now clearly requires that decisions on SB 9 lots splits be made within 60 days of application, (SB 450) which occurred in December of 2022.

To make matters worse, while Fire staff decisions in my case were appealable to the Board under existing law, no such appeal was ever allowed, and four of you failed to respond to my requests that you meet with me so I can present the facts. So, after three years, you only know what staff has told you, which is erroneous, and I have been forced to pursue litigation.

Staff have still failed to even schedule a closed session (despite my repeated requests since January) to allow the Board to reconsider its erroneous position on settlement. From my perspective, the only thing they have achieved, thus far, is to increase the damage to me, and to assure that the damages and fees in this case, which will continue to increase, will be paid by the taxpayers, (of which I am one) rather than the individuals directly responsible for making the errors, and who should have corrected them but refused to do so. Since this lawsuit was filed, your Planning staff has compounded the errors made in my case by codifying them in their SB 9 ordinance, thus exposing the County to additional future liability, not to mention the loss of desperately needed new housing units.

The dispute boils down to this: Your former Fire Marshal erroneously insisted that I remove an obstacle (an overhanging oak limb) on the property of my neighbor, to achieve vertical widening of the private lane. The owner refused to cooperate, but God and their own potential liability took care of that issue a couple of months ago: the limb is gone and the lane - which was *always* wide enough for a Fire truck, is further widened. (See photos attached, which we have provided to staff)

The only remaining issues in the case are the former Fire Marshal's equally illegal insistence that I repave the *entire* lane, (offsite improvements, again) and your Planning Director's continuing refusal to complete processing my application. The law is clear that I am *not* responsible for offsite improvements. The advice given in closed session on Nov. 7, 2023, prior to initiation of this lawsuit, that I must not only repave offsite, but that I do so prior to having my application processed, was doubly wrong. There is no justification for keeping me in limbo any longer.

Jana Zimmer

cc: Mona Miyasoto, CAO

5552

https://outlook.office.com/mail/inbox/id/AAQkAGV1NzM4MTYwLTUyODY1NDQzNi04MWI2LTFlYThlYWFjNDYyYwAQAHXJdLZTX5BIsyEW0xOz1c43D

1/8



Jana Zimmer <zimmerccc@gmail.com>

Concern about interpretation of Draft Safety Element Policy 8.1

Jana Zimmer <zimmerccc@gmail.com>

Fri, Jul 7, 2023 at 4:14 PM

To: "Hazard, Rob" <RHazard@countyofsb.org>, "Olmstead, Chris" <colmstea@countyofsb.org>, "Plowman, Lisa" <lplowman@co.santa-barbara.ca.us>

Chief Hazard and Director Plowman:

I am concerned that if the Safety Element proposed Policy 8.1 is misinterpreted, and if it is adopted next week, all of our efforts to resolve our matter will come to naught. **I would like you to please clarify that Policy 8.1 shall not be interpreted to preclude your finding of "same practical effect" as we have been discussing for my case.** I am concerned that our entire effort to resolve our issues will be nullified if, the day after these amendments go into effect, you no longer have the authority that you have today, and which has been the entire focus of our efforts with you and Captain Olmstead. I do not share County Counsel's view that this should be considered 'confidential' information. I think the Board needs to be fully apprised, in public, of the meaning and of the consequences of their adoption of policy and of its impact on efforts to meet housing needs, in general and in my case.

I think the concerns could be addressed by changing the language of Policy to replace the word "will" with the word "should" to enable you to clearly retain the authority you have now to find "same practical effect", where it is impossible to comply with the literal mandate, in our case, of your Development Standards for access/road width.

Please let me know whether you share this view. I plan to file a comment letter with the Board, but wanted to give you a heads up about my concerns. Please let me know if you concur in this change.

Thank you and have a nice weekend.

--

Jana Zimmer

(805)705-3784

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From: Tyler Sprague <tsprague@countyofsb.org>
Sent: Friday, May 16, 2025 10:13 AM
To: Jeffrey Lindgren <jlindgren@countyofsb.org>; Ryan Cooksey <rcooksey@countyofsb.org>
Subject: Re: Request for Quimby Fee Refund – SB9 Lot Split at 3533 La Entrada, Santa Barbara

Thanks Jeff,

I will look through it all and get back to you with questions or notes.



Tyler Sprague
COUNTY OF SANTA BARBARA
DEPUTY COUNTY COUNSEL III / OFFICE OF COUNTY COUNSEL
105 East Anapamu Street #201
Santa Barbara, California 93101
Office: 805.568.2950

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From: Jeffrey Lindgren <jlindgren@countyofsb.org>
Sent: Friday, May 16, 2025 10:12 AM
To: Ryan Cooksey <rcooksey@countyofsb.org>; Tyler Sprague <tsprague@countyofsb.org>
Subject: RE: Request for Quimby Fee Refund – SB9 Lot Split at 3533 La Entrada, Santa Barbara

Tyler,

SB9 became effective in Jan 22 and we collected Quimby Fees on this lot split in the amount of \$14,091.20 in Nov 23.

The antagonist in this story is demanding refund of the Quimby Fees and quoting similar in Menlo Park, see attached Letter to CSD and HCD memo to Menlo Park.

Can you confirm:

1. SB9 applies to the 3533 La Entrada project = lot split
2. We must return the collected fee

Jeff:

Can you have someone look into this and prepare a response for my signature? Thanks

From: Imran Rao <imran@riechersengineering.com>

Sent: Thursday, May 15, 2025 11:32 AM

To: Jesús Armas <jarmas@countyofsb.org>

Subject: Request for Quimby Fee Refund – SB9 Lot Split at 3533 La Entrada, Santa Barbara

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Dear Jesus,

I hope this email finds you well. I am Imran Rao, writing on behalf of Peter Riechers. Attached is a formal letter regarding the improper assessment and collection of the Quimby fee for the SB 9 urban lot split at 3533 La Entrada, Santa Barbara.

The letter requests an immediate refund of the fee, referencing applicable state guidance and including the attached HCD Memorandum.

Please review the letter and confirm in writing within ten days that the County will issue the full refund. If you have any questions, feel free to contact me.

Thank you for your prompt attention.

Best regards,



Imran Rao
Executive Administrative Assistant

[Riechers Engineering](#) | riechersengineering.com

imran@riechersengineering.com

7/4/25, 11:43 AM

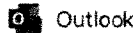
Mail - Ashley Casanova - Outlook



<https://outlook.office.com/mail/inbox/id/AAQKAGVKNzM4MTYwLTVjODY1NDQzN04MwI2LTFiYTUyWTJNDYyYwAQAHXJdLTx5B1yEW0rxOz1c%3D>

7/4/25, 11:42 AM

Mail - Ashley Casanova - Outlook



Fwd: For your consideration- changed circumstances

From Jana Zimmer <zimmerccc@gmail.com>
Date Sun 6/29/2025 11:04 AM
To Ashley Casanova <ashley@andreamarcuslaw.com>

This should be 672 e mail JZ to Chief Tan 4.16.2025

----- Forwarded message -----

From: Jana Zimmer <zimmerccc@gmail.com>
Date: Wed, Apr 16, 2025 at 8:56 AM
Subject: For your consideration- changed circumstances
To: Tan, Fred <ftan@countyofsb.org>

Dear Chief Tan,

Congratulations on your appointment, and thank you for your recent visit to Las Encinas Lane with County Counsel. I am providing the below additional information to you to update and aid in your recommendations/discussions with the Board when my item is scheduled for closed session. While I/we maintain that the County is simply not permitted to require me to widen any portion of the lane off my property, or repave the entire lane, we have done everything we can legally do.

Last week I invited the representative from Fire Safe Council to review the condition of my property. I informed him that I/we have completed his major recommendations, (gutter filters, tree trimming, removal of wooden gate, small mesh screens. I am probably going to have to sue Francavilla at 2636 over his refusal to allow me on his property to trim **my** oak, of which one limb extends over his property, and other obstructions, and his and other neighbors' refusal to enter into a roadway and tree maintenance agreement (draft attached). I have made it clear that I will not repave the entire lane for their benefit, under any circumstances. Their responsibility is clear under CC 845.

Even assuming you could lawfully require any "offsite" improvements, please note that we have repeatedly made the point that if the Board wishes to resolve this dispute, their proper procedural mechanism is for you/they to review the improvements I have completed to find "same practical effect". We are asking that you review the record, and this new information, and make that recommendation, so that the litigation we were forced to pursue- at great personal cost- by your predecessors to file can be resolved. Please note, also, that as a matter of fact, both State Fire and the County's draft Community Wildfire Plan have categorized our property as "moderate" hazard, consistent with what we have been arguing.

5546

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1/5



Jana Zimmer <zimmerccc@gmail.com>

APN: 023-250-020 Lot Split

Jana Zimmer <zimmerccc@gmail.com>

Wed, Jun 14, 2023 at 5:04 PM

To: "Richardson, Jennifer" <jrichardson@countyofsb.org>, "Van Mullem, Rachel" <rvanmull@co.santa-barbara.ca.us>
 Cc: "Plowman, Lisa" <lplowman@co.santa-barbara.ca.us>

All-

I just received the attached from County Fire and had a lengthy conversation with Rob Hazard about it.

In the end he agreed to have Captain Olmstead come out again to specify where he thinks the "turnaround" could feasibly go, or whether it could meet Fire's standards. He told me that all that was reported to him last time was that it wasn't 'ideal' but doable. Captain Olmstead did not write down any measurements when he was here last, so I cannot tell what he was assuming for the area coverage, or if it would require removal of any mature oaks or removal or alteration of my existing drainage course which impacts my neighbor as well as me, or other improvements, such as fences and walls. He also claimed that they would not prohibit my own parking on the area, but I cannot leave myself vulnerable to any ambiguity on that point.

His Option #2 is patently infeasible given the physical conditions on the lane. While he has reduced his demand from 20' to 15' it is not legally or physically possible for me to widen the entire lane. I have already done what I could to widen my own frontage.

As we discussed at our meeting of May 16, I am willing to revise the project description so that the new lot is deed restricted to allow only one residence. I would further consider deed restricting (giving up the existing JADU) on my primary lot so that only has one residence so there is no 'net' increase in density.

I also told him I would research the feasibility of sprinklering my main residence, in addition to sprinklering any structure on the new lot.

And, while this entire exercise was undertaken in order to secure separate financing for construction of the dwelling which has already been approved as an ADU, I told him I am also willing to consider moving or revising that plan so that the rear wall of any residence is within 150 feet of the southern property line (i.e. to meet their hose length requirement.)

Ultimately, whether we have resolution will depend on the County recognizing the limits of their authority under SB 9, and specifically whether and to what extent the "exception" for high or very high fire hazard areas is or can be applicable to my property, and even if so, which building standards are appropriate to apply. I believe that the alternatives that I have proposed (deed restriction and sprinklering of any residence - and to which neither P&D nor County Counsel has responded are rational, reasonable, and provide greater fire safety than either of Fire's proposed two alternatives. Fire seems to believe that they can impose standards on a ministerial permit which they cannot impose on a discretionary permit under the MC Plan policies. I have heard enough of Fire's legal opinions, and I do not agree with them.

If P&D finds my proposals adequate but Fire does not, then P&D should approve a map which incorporates my offers, and let Fire appeal if they desire. Maybe your new Deputy CAO can be involved in resolving these internal issues, as I suggested earlier. All of these issues should have been vetted last August, as I requested you to do. If County Counsel has developed a position, and/or disagrees with the various legal contentions I have made, please do me the courtesy of sharing your views.

Jana

[Quoted text hidden]

Jana Zimmer

(805)705-3784



Jana Zimmer <zimmerccc@gmail.com>

Next Steps

Jana Zimmer <zimmerccc@gmail.com>

Sat, Jul 8, 2023 at 6:43 PM

To: "Olmstead, Chris" <colmstea@countyofsb.org>

Captain Olmstead,

I am providing below materials and a proposed agreement that I shared today with Mark and Madeleine Francavilla, owners of 2636, pertaining to additional steps to be taken on their property to address fire access and fire hazard. With this proposed agreement, I believe I have exhausted every feasible option to (a) reduce fire hazard from their property to mine, and (b) widen the lane to the extent possible along their frontage to correct obstructions on their property to access for fire equipment to my property and the Hills. They have said they are seeking legal representation, so I do not know when or whether they will sign it, but I am forwarding it to you to show you that I have exhausted every option I can think of. Frankly, if the County desires to restore a uniform fifteen foot road width in front of their properties, or for the Museum to remove any obstacle on their property, they have the immediate authority to order it.

Thus, as it stands today, the "Menu" of feasible options that I have committed to and secured from my neighbors and which are intended to be as responsive as possible to Chief Hazard's options i(widen the lane to 15' or provide a turnaround on my property) in his letter of June 14 are:

1. I have performed and/or agreed to the following measures on my property:

- a. widened my driveway to 17 feet at the entrance.
- b. agreed to sprinkler any residence on the new lot.
- c. widened the lane along the frontage on my side (north) by approximately 2 feet;
- d. secured the approval of the Museum to widen on the south side to their property line.
- e. offered to extend my western parking area to the south to enable turnaround of emergency vehicle by removing the garbage enclosure and extending the gravel to the south. This is better for maneuverability than the suggestion that I remove my patio or landscaping.
- f. trimmed the oak on my property to 13'5" per Captain Gray's direction last summer.

2. I have obtained the cooperation of my neighbors on the lane as follows:

- a. Letter from Ron Hill consenting to continued use of the "bulb style" turnaround which fire and other trucks having been using for 50 years.
- b. With the cooperation of the new owner, Xavier Ortiz, expansion of the traversible area of the lane along the frontage of 2620 to the 15' width requested.
- c. secured the consent of the Museum to expand the paved area of the lane along my frontage to their property line.

In addition, I will follow through on additional paving and tree trimming as follows:

- d. I am seeking bids from Economy Tree to prune back the oak that overhangs my roof and which is over the 'fire ladder' created by Francavilla's hedge along my north south boundary.
- e. I am seeking a bid from Challenge Asphalt to repave my frontage, up to the center line of the lane and the Museum property boundary.

Apart from the need to obtain consent from the owner of 2636 (Francavilla) for them to perform the measures described in the attached letter, there is literally nothing more I can legally do. The two properties which have not yet agreed to improvements and which are the most nonconforming as to access are:

- a. Francavilla
- b. Bartz, for whom the County approved an ADU without any request for lane widening or improvement in 2021. The lane is 17 feet at the entrance, and Mr. Bartz is not interested in doing any more along their frontage. Note that Francavilla has been "guiding" and helping them in relandscaping, for their ADU, and I have asked them to stop what they are doing along their plywood fence with Francavilla's guidance, and move back to the fence to widen the lane as much as physically possible.

7/22/23, 4:01 AM

Gmail - Next Steps

In addition, the County has apparently declined to require the Museum to limb or remove their oak which overhangs the lane easement.

I believe that these measures, along with my previous offer, including deed restricting my new lot to one residence, and giving up my existing vested permit to an attached RSU are fully responsive to any conceivable 'impact' from my lot split, and should enable the Fire Marshal and P&D to determine that the suite of measures I have performed or obtained commitments for are sufficient for the Fire Marshal to find "same practical effect", and for P&D to determine that the preponderance of evidence supports an approval. of this ministerial permit.

Please review these additional materials, and call me with any questions or if you need to discuss further.

Thank you.

Jana Zimmer

----- Forwarded message -----

From: **Jana Zimmer** <zimmerccc@gmail.com>

Date: Sat, Jul 8, 2023 at 2:28 PM

Subject: Re: Next Steps

To: Madeleine Francavilla <mfrancavilla805@gmail.com>

Att. 1: Draft letter Francavilla to County

Att. 2: Survey showing wall 7' into my 15' easement

Att 3: Davis Survey showing Francavilla N/S property line

Att 4: Chronology of events 2009-2013 showing Francavillas have been fully aware of the limits on their property since at least 2009

Att 5: e mail Solomon to Francavilla 10.2.2013

Att 6: e-mail Zimmer to Francavilla 10.30.2013 objecting to further intrusions into the lane easement.

[Quoted text hidden]

6 attachments



Davis Survey Francavilla line south.jpg
4194K



Davis Survey Francavilla property line 2013.jpg
7080K



96 Letter of Commitments Francavilla 2636.docx
24K

1054

zimmerccc@gmail.com

From: Plowman, Lisa
Sent: Friday, July 7, 2023 4:25 PM
To: Jana Zimmer; Hazard, Rob; Olmstead, Chris
Cc: Wade Horton; Richardson, Jennifer
Subject: RE: Concern about interpretation of Draft Safety Element Policy 8.1

Hi Jana – We discussed the issue you raise internally and the County does not believe that Policy 8.1 will change the Fire Departments ability to work with applicants in determining “same practical effect”. We are prepared to say this at the hearing if the question is asked.

Best,
Lisa



Lisa Plowman
Director
Planning & Development
123 E. Anapamu St.
Santa Barbara, CA 93101
805-568-2086
lpowman@countyofsb.org
<http://www.countyofsb.org/plndev/home.sbc>

From: Jana Zimmer
Sent: Friday, July 7, 2023 4:15 PM
To: Hazard, Rob ; Olmstead, Chris ; Plowman, Lisa
Subject: Concern about interpretation of Draft Safety Element Policy 8.1

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Chief Hazard and Director Plowman:

I am concerned that if the Safety Element proposed Policy 8.1 is misinterpreted, and if it is adopted next week, all of our efforts to resolve our matter will come to naught. **I would like you to please clarify that Policy 8.1 shall not be interpreted to preclude your finding of “same practical effect” as we have been discussing for my case.** I am concerned that our entire effort to resolve our issues will be nullified if, the day after these amendments go into effect, you no longer have the authority that you have today, and which has been the entire focus of our efforts with you and Captain Olmstead. I do not share County Counsel’s view that this should be considered ‘confidential’ information. I think the Board needs to be fully apprised, in public, of the meaning and of the consequences of their adoption of policy and of its impact on efforts to meet housing needs, in general and in my case.

I think the concerns could be addressed by changing the language of Policy to replace the word “will” with the word “should” to enable you to clearly retain the authority you have now to find “same practical effect”, where it is impossible to comply with the literal mandate, in our case, of your Development Standards for access/road width.



Jana Zimmer <zimmerccc@gmail.com>

Appeal issues 2640 Las Encinas Lane- request for clarification

Jana Zimmer <zimmerccc@gmail.com>

Mon, Apr 6, 2026 at 5:33 PM

To: "Plowman, Lisa" <lplowman@countyofsb.org>, "Hartmann, Joan" <jhartmann@countyofsb.org>, Laura Capps <lcapps@countyofsb.org>, bob.nelson@countyofsb.org, steve.lavagnino@countyofsb.org, Solomon Richard <rcsolomon42@gmail.com>

Cc: Mona Miyasato <mmyasato@countyofsb.org>, Roy Lee <roylee@countyofsb.org>

Ms. Plowman:

Your response is grounded in a fundamental legal and factual error: **You are not permitted under any circumstances to require me to make any improvements of any nature, prior to recordation of my lot split. I have repeatedly advised that I am willing to and have "adopted" measures to be performed after recordation.** Your failure to acknowledge this critical distinction, and to perpetuate this litigation, is unfathomable at this point. *The court has not addressed, let alone found in the County's favor on this issue, and we will advise them at our next hearing of your persistent errors and violations of the law.* You continue to unlawfully hold my application in limbo, now by failing to acknowledge the difference between "adoption" and "performance" of mitigation measures.

You cannot be unaware that the work that the Fire Marshal has demanded of me is to **further** widen and **repave the existing paved lane** over which I have an easement. There are no grading plans to be submitted because there is no grading to be done, and no grading permit required. I have provided evidence of the widening and repaving that has been completed.

If you have read the attachments to my e-mail,

1. You are also aware that I have indeed applied /requested the "same practical effect" determination -twice,- the second time because your attorneys demanded that I submit a one page form along with materials supporting my prior request that you have had for three years. You are aware that Fred Tan has denied the same practical effect determination, insisted that the lane must be **widened to a uniform 15'**, which he knows is impossible, and insisted that I complete additional improvements on property I do not own or control.
2. You are also aware that I have been required to appeal his 'determination' to a Board of Fire Appeals that does not have a quorum of members to hear an appeal, and from which I must appeal to the Board of Supervisors, and which appeal cannot occur within the time frames your lawyers say apply. The appeal letter was attached.
3. You have not disputed that offsite improvements, if otherwise allowed, **cannot be required prior to recordation of the lot split.**
4. ***You are also aware that both Fire Marshal Hazard, and former Chief Hartwig specifically acknowledged that the road width standard is 15', not 20', you know that I only have a 15' easement, and you know that I would never have applied for a lot split if you or Travis Seawards had told me at any time that this would be a pre-condition.***

There is no policy basis, and you know there is **no evidence** to support a finding to deny this lot split.

I have provided multiple opportunities for you to correct your errors, and to remedy your intentional violations of both substantive and procedural due process, and resolve this case. The Board has not considered this case in a legally noticed closed session for almost a year, so they cannot possibly be aware of the specific issues that are preventing resolution. They certainly have never heard from me. **In order to mitigate damages, you need to complete processing of the lot split, acknowledge that the road width standard is 15' under the Mission Canyon Plan, and not 20 feet as now claimed by your attorneys, and approve it subject to compliance with the 15' road width at the time of building permit, since the Fire Marshal has refused to find same practical effect from all the measures I have performed and offered.** **By copy of this e mail, I am asking the Chair of the Board, or the CAO and Supervisor Lee to calendar the case for consideration as soon as the Board reconvenes.**

Jana Zimmer

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

651 Bannon Street
Sacramento, CA 95811
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



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.

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 Law⁸ 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
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).