



April 13, 2023

The Honorable Amy Bodek
Director, Los Angeles County Department of Regional Planning
320 West Temple Street, 13th Floor
Los Angeles, CA 90012
Electronic Transmission of three (3) Pages to:
abodek@planning.lacounty.go

Subject: Acton Town Council Concerns with New Accessory Dwelling Unit Policy.

Reference: Department of Regional Planning Memo Issued February 1, 2023.
Accessory Dwelling Unit Ordinance Adopted Oct 13, 2020 [Ordinance 2020-0059]

Dear Director Bodek;

The Acton Town Council has received a copy of a Memo that was recently issued by the Department of Regional Planning pertaining to new state regulations and their implications for the County's Accessory Dwelling Unit ("ADU") Ordinance and we are substantially concerned by a number of matters raised therein. Specifically, we understand that, under the new policies established by the Memo, County will not enforce the secondary access provisions imposed by Code Section 22.140.640(C)(2) for ADU's located in Very High Fire Hazard Severity Zones (VHFHSZs). The Acton Town Council is particularly concerned by the safety impacts that these policies will have on our community; therefore, we respectfully submit the following comments pursuant thereto.

The Memo asserts that the new policies are driven by recent amendments to Section 65852.2 of the Government Code which resulted from two new bills (Senate Bill 897 and Assembly Bill 2221) that were signed by Governor Newsom in 2022 and became effective on January 1, 2023. The Acton Town Council has reviewed Government Code Section 65852.2 (provided in Attachment 1) and note that it does not prevent the County from restricting the placement of ADUs in areas that pose a public safety concern. In fact, Section 65852.2(a)(1)(A) explicitly empowers local agencies to designate areas within their jurisdiction where accessory dwelling units may be permitted based on the extent to which they will impact public safety. In other words, Government Code Section 65852.2 specifically directs the County to consider both traffic flow and public safety in establishing the unincorporated areas where ADUs will be permitted and (by extension) where they will not be permitted.

As you are aware, the secondary access requirements that are imposed in the ADU ordinance were explicitly adopted to enhance and promote public safety in fire-prone areas¹ thus, they fall squarely within the ambit of the statutory provisions of Government Code Section 65852.2 which allow local agencies to designate the areas under their jurisdiction where ADUs will be permitted based on the safety risks they pose. Because the secondary access requirements imposed by the County's current ADU ordinance do not in any way conflict with Government Code Section 65852.2 (or any other code provision), they cannot be eliminated or otherwise "waved away" by any policy memo.

The Acton Town Council has also carefully reviewed the legislative intent behind both SB 897 and AB 2221 and found that these bills neither disturb the public safety provisions of Government Code Section 65852.2(a)(1)(A) nor prevent a local agency from designating areas where ADUs shall and shall not be permitted for public safety reasons. For instance, the scope and extent of SB 897 is limited to merely²:

- Adjust the minimum ADU height limit that a local agency may impose;
- Clarify that standards imposed on ADUs must be objective;
- Ensure permitting agencies act on ADU applications within 60 days;
- Establish that permits for constructed, unpermitted ADUs cannot be denied under certain circumstances;
- Ensure that construction of an ADU does not trigger a requirement for fire sprinklers; and
- Prevent a local agency from compelling the correction of a violation on a primary dwelling unit under certain circumstances.

Similarly, the scope and extent of AB 2221 is limited to merely³:

- Clarify the definition of "permitting agency";
- Specify what it means for a permitting agency to "act" on an ADU application;
- Prohibit local governments from imposing front setback standards on ADUs; and
- Incorporate changes to ADU height limits that are proposed by SB 897.

Taken together, these facts demonstrate that the secondary access requirements imposed on ADUs by Section 22.140.640(C) of the County Code do not conflict with either SB 897 or AB2221; therefore, they remain in full force and effect.

¹ Page 4 of the letter of support for the current ADU Ordinance that you signed on August 4, 2020 states (with emphasis added) "Prohibited Areas: *In order to promote public health and safety in fire-prone areas*, the County's previous ADU Ordinance prohibited the construction of new ADUs, and the conversion of existing spaces to ADUs, within VHFHSZs with substandard roads and limited access. *The proposed Ordinance further clarifies the language in the previous ordinance by requiring two distinct means of access not overlapping with each other*, as measured from the lot frontage to the point of intersection with a highway."

[<https://file.lacounty.gov/SDSInter/bos/supdocs/147452.pdf>]

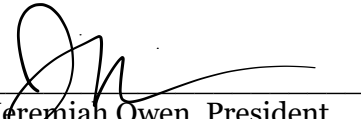
² file:///C:/Users/Jacki/Downloads/202120220SB897_Senate%20Floor%20Analyses.pdf

³ file:///C:/Users/Jacki/Downloads/202120220AB2221_Assembly%20Floor%20Analysis.pdf

Finally, the Acton Town Council points out that the Department of Regional Planning is not permitted to implement any policy which controverts either the express language of, or the legislative intent behind, any ordinance that has undergone a public review process and been adopted by the Board of Supervisors unless the language is clearly in conflict with adopted state statutes. Consistent with these facts, we agree that the provisions of the Memo addressing ADU setback and height requirements are appropriate; however, we dispute your conclusion that the ADU prohibitions established by 22.140.640.C of the County Code to protect public safety are nullified by either SB 897 or AB 2221. Accordingly, the Acton Town Council respectfully requests that you revise the policies expressed in the Memo to reflect that the prohibitions established by 22.140.640.C of the County Code are still in full force and effect. Moreover, if any deficiencies or errors have been found in our analysis, the Acton Town Council respectfully requests that you identify what they are and how they are erroneous.

We look forward to working with you to quickly address these issues over the next few weeks.

Sincerely;



Jeremiah Owen, President
The Acton Town Council