

# County of Monterey



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October 10, 2024

### **VIA U.S. MAIL ONLY**

Samantha W. Zutler, City Attorney  
City of Watsonville  
275 Main Street, Suite 400  
Watsonville, CA 95076

**Re: Response to the City of Watsonville's Improperly Accepted Appeal (#PP2024-7954) of a Ministerial Approval of a Portion of a By-Right Development, i.e. Recurso de Fuerza, proposed for 118 1st Street (#PP2023-6297)**

Dear Ms. Zutler,

We are writing to respond to an email, received by County Homeless Services Director, Roxanne V. Wilson, regarding Appeal #PP2024-7954 of the City's approval of the County's August 23, 2024, Zoning Clearance Application for the proposed Low Barrier Navigation Center at 118 1<sup>st</sup> Street in Watsonville (the Project). The City's decision to accept the appeal and hear that appeal, should the City move forward, would violate state law. Moreover, the City's decision to suspend communication with County staff, delaying the Project by a minimum of 7 weeks, is directly contrary to the Legislature's express intent in enacting AB-101, the law which established Low Barrier Navigation Centers.

Government Code section 65660(a) defines a "Low Barrier Navigation Center" as a "Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing."

The Project satisfies all statutory requirements to qualify as a Low Barrier Navigation center, per Government Code section 65662:<sup>1</sup>

- a. The Project is sited on land zoned for mixed-use or nonresidential purposes and is within an area that allows for residential or commercial development;
- b. The Project would offer services to connect people to permanent housing through a defined service plan that details services and staffing;

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<sup>1</sup> The Project would also meet local design standards and adhere to all arguably applicable zoning and land use regulations.

- c. The Project incorporates low-barrier access features, including a “housing first” approach, 24/7 on-site staff, provisions for pets, storage of personal belongings, and privacy.
- d. The Project would participate in the Homeless Management Information System (HMIS) for entering and storing information as to client stays, demographics, income, and exit destination, and will participate in the local Coordinated Entry System; and
- e. The Project would comply with Chapter 6.5 of Division 8 of the Welfare and Institutions Code.

Consequently, the Project constitutes a “Low Barrier Navigation Center” within the meaning of AB-101. This fact eliminates the City’s discretion with respect to the project. “[A] Low Barrier Navigation Center development is *a use by right* in areas zoned for mixed use and nonresidential zones permitting multifamily uses . . . .” (Gov. Code, § 65662, emphasis supplied.) Government Code section 65660(b) provides that “use by right” “has the meaning defined in” Government Code section 65583.2(i), namely, that:

“the local government's review of the owner-occupied or multifamily residential *use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval* that would constitute a ‘project’ for purposes of” CEQA. (emphasis supplied).

In other words, approvals for this project are wholly ministerial; the City has no discretion in reviewing the Project. So long as the statutory requirements for a Low Barrier Navigation Center are met, the City *must* approve the project. Ministerial decisions related to this project are not properly appealable to either the City’s Planning Commission or the City Council. Our Legislature expressly so decided in employing the term “use by right,” as so defined. Indeed, in enacting AB-101, the Legislature found and declared that:

“Low Barrier Navigation Center developments are *essential tools for alleviating the homelessness crisis in this state and are a matter of statewide concern and not a municipal affair* as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this article shall apply to all cities, . . . .” (Gov. Code, § 65666.)

Put simply, the City lacks authority to entertain a discretionary appeal on this ministerial project. The City is similarly unjustified in pausing the Project’s progress for 7 weeks – and potentially more should an improper appeal to the City Council follow – events that could endanger critical project financing. Both decisions are unacceptable and contrary to law. We therefore urge you to reverse course immediately, disallow the appeal, and continue to work with the County to move this desperately needed project forward as quickly as possible.

Given that the Project is already a year behind and is facing funding deadlines, the situation is urgent. Please advise us of your intentions as to these issues as soon as possible, but no later than Friday, October 18, 2024. I genuinely hope we can come to a mutually satisfactory

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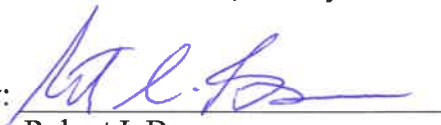
solution to this situation by then. However, given the exigencies, if we reach that date without progress, the County will be left with little choice but to explore its alternatives to resolve this situation consistent with state law.

It is my sincere wish that we do not reach that point. The County remains committed to working cooperatively with the City to bring this critically-needed infrastructure to serve the occupants of the Pajaro River encampment and assist with the homelessness emergency it currently faces.

Please feel free to contact me directly to discuss.

Sincerely,

SUSAN K. BLITCH, County Counsel

By:   
Robert I. Brayer,  
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RIB:jl

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