



CITY OF CARMEL-BY-THE-SEA

CITY COUNCIL AGENDA

Contact: 831.620.2000 www.ci.carmel.ca.us

Mayor Dale Byrne
Councilmembers Jeff Baron, Hans Buder, Bob Delves, and
Alissandra Dramov

All meetings are held in the City Council Chambers
East Side of Monte Verde Street
Between Ocean and 7th Avenues

Regular Meeting Tuesday, August 4, 2026 4:30 PM

HYBRID MEETING ATTENDANCE OPTIONS

This meeting will be held in person and via teleconference ("hybrid"). The public is welcome to attend the meeting in person or remotely via Zoom, however, the meeting will proceed as normal even if there are technical difficulties accessing Zoom. The City will do its best to resolve any technical issues as quickly as possible. To view or listen to the meeting from home, you may also watch the live stream on the City's YouTube page at: <https://www.youtube.com/@CityofCarmelbytheSea/streams>. To participate in the meeting via Zoom, copy and paste the link below into your browser and enter the passcode.

<https://ci-carmel-ca-us.zoom.us/j/83138976374>

Webinar ID: 831 3897 6374

Passcode: 862068

Dial in: (253) 215-8782

HOW TO OFFER PUBLIC COMMENT

The public may give public comment at this meeting in person, or use the Zoom teleconference module, provided that there is access to Zoom during the meeting. Zoom comments will be taken after the in-person comments. The public can also email comments to cityclerk@ci.carmel.ca.us. Comments must be received at least 2 hours before the meeting in order to be provided to the legislative body. Comments received after that time and up to the beginning of the meeting will be made part of the record.

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

EXTRAORDINARY BUSINESS

A. Non-Profit Spotlight: Monterey Symphony

PUBLIC APPEARANCES

Members of the public are entitled to speak on matters of municipal concern not on the agenda during Public Appearances. Each person's comments shall be limited to 3 minutes, or as otherwise established by the Chair. While stating your name is optional, it helps to identify speakers in the meeting minutes. Under the Brown Act, public comment for matters on the agenda must relate to that agenda item, and public comments for matters not on the agenda must relate to the subject matter jurisdiction of this legislative body. Remote or in-person participants who do not comply with the requirements of the Brown Act will be muted.

ANNOUNCEMENTS

City Administrator Announcements

City Attorney Announcements

Councilmember Announcements

PUBLIC HEARINGS

- 1) Consideration of Adoption of Fee Schedule Amendment to the Fiscal Year 2026-2027 Fee Schedule, including updating fees citywide, Community Planning and Building, Public Safety, and Public Works; and Discussion and Direction regarding a Fee Waiver Policy - ***Continued from July 7, 2026***

ORDERS OF BUSINESS

Orders of Business are agenda items that require City Council discussion, debate, direction to staff, and/or action.

- 2) Discussion and Direction on Financial Stewardship Workgroup ad hoc - ***Continued from July 7, 2026***
- 3) Resolution 2026-060 Authorizing the City Administrator to Execute a Construction Contract with Silcon Constructors for the Beach Access 12th and 10thh Avenues Stairs Repair Project (Carmel Beach Coastal Protection and Access Improvement) BID # 25-26-007, for a total not-to-exceed amount of \$364,417.13 including base bid (\$223,149.70), Add Alternate (\$80,531.24), and Contingency (\$60,736.19)
- 4) Discussion and policy direction regarding: the permitting of Accessory Dwelling Units (ADUs), and draft amendments to Title 17 relating to ADUs.
- 5) Provide Direction Regarding a Potential Urgency Ordinance Addressing Home Hardening and Wildfire Safety Regulations Citywide

RECESS

The City Council will take a 30-minute break around 6:30 p.m.

FUTURE AGENDA ITEMS

ADJOURNMENT

This agenda was posted at City Hall, Monte Verde Street between Ocean Avenue and 7th Avenue, Harrison Memorial Library, located on the NE corner of Ocean Avenue and Lincoln Street, the Carmel-by-the-Sea Post Office, 5th Avenue between Dolores Street and San Carlos Street, and the City's webpage (<http://www.ci.carmel.ca.us>) in accordance with applicable legal requirements.

CORRESPONDENCE RECEIVED AFTER THE POSTING OF THE AGENDA

Any correspondence or supplemental materials related to items on this agenda that are received after the agenda has been posted will be distributed to the City Council and made available for public review at City Hall (Monte Verde Street between Ocean and Seventh Avenues) during regular business hours. Written comments emailed to the City Clerk will not be read aloud, but will be posted online with the

related agenda at: <https://carmelbytheseaca.portal.civicclerk.com/>.

SPECIAL NOTICES TO PUBLIC

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at 831-620-2000 at least 48 hours prior to the meeting to ensure that reasonable arrangements can be made to provide accessibility to the meeting (28CFR 35.102-35.104 ADA Title II).



CITY OF CARMEL-BY-THE-SEA
City Council
Staff Report

August 4, 2026
PUBLIC HEARINGS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Jayme Fields, Finance Manager

APPROVED BY: Brandon Swanson, Acting City Administrator

SUBJECT: Consideration of Adoption of Fee Schedule Amendment to the Fiscal Year 2026-2027 Fee Schedule, including updating fees citywide, Community Planning and Building, Public Safety, and Public Works; and Discussion and Direction regarding a Fee Waiver Policy (COPY) - ***Continued from July 7, 2026***

RECOMMENDATION:

Receive a presentation on the proposed amendments to the Fiscal Year 2026-2027 Fee Schedule for Citywide services and a Draft Fee Waiver Policy and provide direction to staff.

BACKGROUND / SUMMARY:

The City provides a variety of services that benefit specific individuals, such as the issuance of business licenses, planning and building permits, and tree removal permits. In accordance with State law, the City is legally allowed to charge a fee to the user of a specific service to recover the cost of providing the service and should collect that fee so that services provided to individuals do not become a burden on the General Fund. To help determine the cost of providing certain services, as well as to develop alternative and more equitable ways to finance some services, the City commissioned fee studies to understand the time and materials provided by it to individuals and created the Fiscal Year 2026-2027 fee schedule ("FY 26-27") based on these studies.

The resulting schedule was approved at the May 5, 2026 City Council meeting. At that meeting, the City also discussed the possibility of bringing the fee schedule back with updates and improvements. The attached revised fee schedule does that (See

Attachment 2 showing redlined/highlighted changes, and **Attachment 3** showing a revised citation). The changes proposed to the fees include:

- Language that allows the City to waive fees under specific conditions
- Updates to the fine related to parking citations for Overtime parking
- Simplification of fee descriptions and the addition of the ability to recover legal fees, where applicable
- The ability to collect fees for Unusual Services without creating an overly complex list

Waiver of Fees

While it is important for a City to recover the costs of services provided to individuals, there may be instances where the service, or its end result, is in the public interest. In those instances, the City may want to be able to waive or amend the fee listed in the fee schedule. The following suggested language allows for that:

City Administrator Fee Waiver Authority

Written requests for fee waivers may be submitted in writing with a justification statement to the City Administrator or designee. Fee reductions or waivers may be granted for activities or uses determined by the City Administrator to be in the public interest, support a civic or community benefit, promote equity or access, or align with goals adopted by the City Council. Requests that do not meet these criteria require City Council approval. Fee waivers exceeding the City Administrator's signing authority shall also require City Council approval.

The following are examples of instances where services provided to individuals may be in the public interest:

- Inclusionary portions of proposed residential developments.
- Special Handling affordable housing projects.
- Persons age 62 or over on a fixed, very low income defined by Housing and Urban Development (HUD).
- Permit fees for the repair or reconstruction of property and structures damaged or destroyed by an act or event that has been declared a disaster by the City Council where insurance is inadequate to pay the applicable fees.
- Development, enhancement, expansion or modification of needed community facilities by non-profit organizations and community groups meeting the following criteria:
 - The proposed project is available for use by the general public; and

- Provides a scope of benefit beyond the residents of the immediate vicinity; and
- Is of obvious public benefit. Evidence of public benefit includes, but not limited to projects that:
 - Meet a public need previously identified or recognized by the City Council;
 - Provide a public facility not presently available in the community;
 - Is authorized and non-discriminatory;
 - Have generated obvious, substantial community support; or
 - Would either reduce City costs or increase City revenue.
- Services being performed that benefit the City.

Parking Citations

As a part of the enhanced parking enforcement effort being initiated by the City, an increase to the Overtime Parking CODE 10.32.060 CMC (i.e. parking past the posted time limit) appears reasonable. This citation bail amount (i.e. “fine”) has not been increased since June of 2019. The suggested increase is two-fold. First, the suggested increase updates the base fine to bring it into line with neighboring cities, and second, the suggested increase adds tiers to the fine structure to focus the impact of enhanced parking enforcement on repeat offenders in order to change those most resistant parking behaviors.

A comparison to other cities vs. the current and proposed City citation structure is as follows:

Ticket Type	Monterey	Pacific Grove	Seaside	Sand City	Statewide Average	Carmel-by-the-Sea (Current)	Carmel-by-the-Sea (Proposed)	Notes
Parking Over Time Limit	\$48	\$48	\$48	N/A	\$65	\$40	\$48	First offense
							\$60	Second offense
							\$80	Third+ offense

Progressive parking penalties target a small number of chronic violators, providing a higher likelihood of deterrence. Overall, the fines for the first infraction are not large, we are only materially raising the cost on those who most need to change their parking behavior.

In addition to the preceding, the Council may consider having the amount of the fine fluctuate based on the time of year (similar to demand pricing in the hotel industry). The State of California statutes that govern parking fines do not disallow this but do recommend that parking fines be generally consistent with neighboring cities. Per discussion with the City of Monterey, their city is not currently charging increased fines at certain times of the year but is reviewing the potential of doing so.

Simplified Descriptions including Legal Costs

For certain types of services, particularly things like land use appeals where there is a wide diversity in the amount of legal work being performed, the City has determined that it is fairer for the individuals receiving the service to charge them the actual costs incurred rather than a flat fee. The fee schedule therefore talks about recovering “outside” costs. The wording of the schedule has been updated to simplify the schedule and refer to a clarifying footnote in these cases.

Unusual Services

In the same vein as the revision above, the fee schedule for the City is a list of the most frequent fees. There are services that might arise that are not anticipated in the existing list. Rather than make an exhaustive list of all possible fees (which can add up to 50 pages or more in larger cities) the City has included a “Citywide” fee for unusual services which have no fee listed in the fee schedule. The rules for every fee on the list are the same: the fee must represent the recovery of the actual costs incurred by the City. This new fee applies those rules to the unusual service that has arisen, where the fee will be applied as actual time spent.

Summary

The purpose of this agenda item is to provide an update regarding fees and fines (see **Attachment 1**), and for Council to make addition recommendations to the proposed revised schedules, if any. The next meeting of the City Council will be the second hearing on these revisions. If the Council adopts the revisions in that meeting, the revised fee schedule and citation will become effective 60-days after adoption of the resolution, which is September 6, 2026.

By implementing the revised schedules, the City Council ensures that the individuals receiving specific services pay for the staff time they consume. This protects our volatile Sales Tax and TOT revenues, allowing them to be dedicated to the core municipal services that define the character of Carmel-by-the-Sea.

Staff recommends the adoption of the revised 2026 fee schedule and citation. However, the City Council retains full discretion in establishing fee levels and may choose to adopt, modify, phase, or defer any proposed adjustments based on policy priorities, community considerations, and broader financial conditions.

FISCAL IMPACT:

The estimated impact of this revised fee schedule and citation is an increase of an estimated \$30,000 in additional citation revenue on an annual basis.

The revenue from fees allows the City to recover its costs for providing a service to help offset the cost of services. This means that the overall General Fund revenues are not subsidizing user fees, so more of the General Fund is available to fund community-wide activities that have a public benefit, like libraries, public safety, and public works.

PRIOR CITY COUNCIL ACTION:

City Council reviewed and approved the FY 2025 – 2026 Fee schedule on May 5, 2026

ATTACHMENTS:

1. Revised Master Fee Schedule FY26-27
2. REDLINED - Revised Master Fee Schedule FY26-27 with changes highlighted
3. Revised Citation 10.32.060

Fee Code	MASTER FEE SCHEDULE FOR THE 2026-2027 FISCAL YEAR, revised	Fee
COMMUNITY PLANNING & BUILDING		
Design Study and Review		
S-001	TRACK 1 DESIGN REVIEW/STUDY - MINOR	\$ 930 per application 930.00
S-002	TRACK 1 DESIGN REVIEW/STUDY - MAJOR	\$1,307 per application 1,307.00
S-002A	TRACK 1 DESIGN REVIEW/STUDY-STREAMLINE	\$ 314 per application 314.00
S-003	TRACK 1 DESIGN REVIEW/STUDY - REFERRAL TO PLANNING COMMISSION	\$2,267 per application in addition to the base Track 1 fee 2,267.00
S-003A	TRACK 1 DESIGN REVIEW/STUDY-REFERRAL TO HISTORIC RESOURCES BOARD	\$2,223 per application in addition to the base Track 1 fee 2,223.00
S-004	TRACK 2 DESIGN REVIEW - MINOR	\$5,010 per application plus deposit* if hours exceed 20 hours 5,010.00
S-005	TRACK 2 DESIGN REVIEW - MAJOR	\$7,571 per application plus deposit* if hours exceed 30 hours 7,571.00
S-005A	TRACK 2 DESIGN REVIEW - MAJOR NEW COMMERCIAL BUILDING	\$3,164 per application, plus a deposit* 3,164.00
S-121	ADDITIONAL PLAN CHECK - PLANNING	\$465 each, after three plan checks 465.00
S-006	PRELIMINARY SITE ASSESSMENT	\$1,914 per application 1,914.00
S-007	REASONABLE ACCOMMODATION	\$ 256 per application, plus fee for associated Design Study/Design Review as applicable 256.00
S-008	VOLUMETRIC ANALYSIS	\$ 180 per application, plus \$1,500 deposit toward costs ** 180.00
Use Permit and Other Services		
S-009	USE PERMIT	\$3,922 per application 3,922.00
S-011	USE PERMIT AMENDMENT	\$3,506 per application 3,506.00
S-012	TEMPORARY USE PERMIT	\$ 212 per application 212.00
S-013	RESTRICTED COMMERCIAL USE TRANSFER REQUEST	\$ 776 per application 776.00
S-014	WATER CREDIT TRANSFER REQUEST	\$3,949 per application 3,949.00
S-015	VARIANCE	\$2,232 per application 2,232.00
S-017	PRELIMINARY APPLICATION REVIEW - STAFF	\$1,735 per application with 50% of this fee credited towards future planning fees for this project. 1,735.00
S-018	PRELIMINARY APPLICATION REVIEW - PUBLIC HEARING (PLANNING COMMISSION, CITY COUNCIL, ETC.)	\$4,750 per application with 50% of this fee credited towards future planning fees for this project. 4,750.00
S-019	COASTAL DEVELOPMENT PERMIT - DEVELOPMENT	\$ 238 per application - Added to other Planning fees 238.00
S-019A	COASTAL DEVELOPMENT PERMIT - EVENT	\$1,016 per application 1,016.00
S-060	LANDSCAPE PLAN CHECK/INSPECTION	\$1,016 per plan/inspection 875.00
	PLANNING TECHNICAL ASSISTANCE	Charge the fully allocated hourly rate for all personnel involved after 15 minutes.
	TOBACCO RETAIL LICENSE	Current fee as adopted by the Monterey County Board of Supervisors
	EXTRAORDINARY DEVELOPMENT	Deposit amount TBD based on scope of project **
Amendments, Annexations and Agreements		
S-020	SPECIFIC PLAN/SPECIFIC PLAN AMENDMENT	\$5,253 deposit toward costs ** 5,253.00
S-022	GENERAL PLAN AMENDMENT	\$5,253 deposit toward costs ** 5,253.00
S-023	SPHERE OF INFLUENCE AMENDMENT	\$5,253 deposit toward costs ** 5,253.00
S-024	ZONING CODE AMENDMENT	\$5,253 deposit toward costs ** 5,253.00
S-025	ANNEXATION	\$10,506 deposit toward costs ** 10,506.00
S-026	DEVELOPMENT AGREEMENT	\$10,506 deposit toward costs ** 10,506.00
Environmental Review Maps and Lot Lines		
S-027	ENVIRONMENTAL REVIEW (IS/ND/EIR)	Contract cost plus 10%
S-028	FILING ENVIRONMENTAL NOTICE OF EXEMPTION	\$ 737 per application plus associated Monterey County fees 737.00

Fee Code	MASTER FEE SCHEDULE FOR THE 2026-2027 FISCAL YEAR, revised	Fee
S-029	MITIGATION MONITORING	\$3,152 deposit toward costs **
S-030	TENTATIVE/FINAL MAP	\$4,202 deposit toward costs **
S-031	AMENDED FINAL MAP	\$1,051 deposit toward costs **
S-032	CERTIFICATE OF COMPLIANCE	\$1,018 per application plus actual contract cost
S-033	LOT LINE ADJUSTMENT/SUBDIV - PLANNING COMMISSION	\$1,340 per application plus actual contract cost
S-034	LOT MERGER	\$1,042 per application plus actual contract cost
Historic Evaluation		
S-035	PRELIMINARY PHASE 1 - INITIAL ASSESSMENT OF HISTORIC SIGNIFICANCE	\$ 402 per application plus Historian fee (currently \$474)
S-035A	PHASE 1 - HISTORIC EVALUATION	\$ 580 per application plus actual cost for Historian review with \$1,500 deposit
S-036	PHASE 2 - HISTORIC EVALUATION (INCLUDES HISTORIC RESOURCES BOARD HEARING)	\$2,567 per application plus actual cost for Historian review with \$1,500 deposit
S-037	APPEAL TO HISTORIC RESOURCES BOARD	\$2,053 per application plus actual cost for Historian review with \$1,500 deposit ***
S-038	MILLS ACT CONTRACT APPLICATION	\$4,293 per application plus actual cost to record contract with County of Monterey
	MILLS ACT MAINTENANCE PLAN REVIEW	\$1,051 deposit toward costs**
	MILLS ACT 5-YEAR INSPECTION	\$ 525 deposit toward costs **
	MILLS ACT 10-YEAR MAINTENANCE PLAN REVIEW	\$1,051 deposit toward costs**
Determinations, Extensions and Appeals		
S-039	PLANNING COMMISSION CODE DETERMINATION	\$2,196 per application
S-040	ZONING COMPLIANCE DETERMINATION	Charge the fully allocated hourly rates for all personnel involved with a one hour minimum
S-041	PERMIT TIME EXTENSION - STAFF	\$ 538 per application
S-042	PERMIT TIME EXTENSION - PLANNING COMMISSION	\$1,349 per application
S-042A	PERMIT TIME EXTENSION - CITY COUNCIL	\$1,312 per application
S-043	PUBLIC HEARING CONTINUANCE - PLANNING COMMISSION	\$ 992 per continuance
S-043A	PUBLIC HEARING CONTINUANCE - COUNCIL	\$ 992 per continuance
S-044	APPEAL TO PLANNING COMMISSION	\$2,501 per appeal ***- No charge for appeals of Coastal Development Permits (CDPs) within the Coastal Commission Appeal Jurisdiction (CMC 17.20.140)
S-044A	APPEAL TO CITY COUNCIL	\$2,712 per appeal ***- No charge for appeals of Coastal Development Permits (CDPs) within the Coastal Commission Appeal Jurisdiction (CMC 17.20.140)
Sign and Banners		
S-045	SIGN APPLICATION	\$ 601 per application
S-046	SIGN REFERRAL TO PLANNING COMMISSION	\$1,907 per application
S-047	RELOCATE EXISTING SIGN	\$ 328 per application
	TEMPORARY SIGN PERMIT	No permit fee required
	BANNER APPLICATION	\$0 per application, applicant bears the fully burdened cost of installation through City approved third-party vendors
Building Services		
S-050	BUILDING RELOCATION	Deposit toward costs **
S-051	LARGE FAMILY DAY CARE (RESIDENTIAL)	\$3,216 per application
	GENERAL PLAN UPDATE	15. % of all Building & Safety permits
S-054	BUILDING PLAN CHECK	Based on Building and Safety Construction Valuation
S-122	ADDITIONAL PLAN CHECK - BUILDING	\$ 409 each, after three plan checks

Fee Code	MASTER FEE SCHEDULE FOR THE 2026-2027 FISCAL YEAR, revised		Fee
S-054A	BUILDING INSPECTION	Based on Building and Safety Construction Valuation	
S-054B	BUILDING RE-INSPECTION	\$ 179 per re-inspection	179.00
S-123	OWNER BUILDER PLAN CHECK & INSPECTION	Based on Building and Safety Construction Valuation	
S-054C	BUILDING PERMIT APPLICATION EXTENSION	\$ 123 per extension (maximum of 4)	123.00
S-054D	BUILDING PERMIT EXTENSION	\$ 206 per extension (maximum of 2)	206.00
S-054E	BUILDING PERMIT PRE-APPLICATION CONFERENCE	\$ 464 per application	464.00
S-124	STORM WATER CONSTRUCTION INSPECTION - RESIDENTIAL	per winter season	374.00
S-125	STORM WATER CONSTRUCTION INSPECTION - COMMERCIAL	per weekly inspection	125.00
S-055	BUILDING SINGLE TRADE PERMIT	\$ 201 per permit	201.00
S-055A	ON-SITE DRIVEWAY PERMIT	\$ 512 per permit	512.00
S-056	SOLAR PLAN CHECK/INSPECTION PERMIT	Plan Check AND Inspection - \$ 450 plus \$15 per kW over 15kW (Per Assembly Bill 1414)	450.00
S-057	RE-ROOF PERMIT	\$ 332 per permit	332.00
S-058	BUILDING BOARD APPEAL	\$1,394 per appeal ***	1,394.00
S-059	DUPLICATE INSPECTION CARD	\$ 78 per card	78.00
	BUILDING TECHNICAL ASSISTANCE	Charge the fully allocated hourly rate for all personnel involved after 15 minutes.	
S-059B	STOP WORK INVESTIGATION	\$ 784 per investigation plus double all Building Permit fees	784.00
S-059C	TEMPORARY CERTIFICATE OF OCCUPANCY	\$ 281 per application	281.00
S-059D	ALTERNATE MATERIALS/METHODS REVIEW	\$ 277 per application plus actual cost of City Staff for all time over one hour.	277.00
S-059E	BUILDING PHASED WORK REQUEST	\$ 402 per application	402.00
0%	BUILDING TECHNOLOGY SURCHARGE	\$ 9 per permit	9.00
Bench Program			
S-061	NEW BENCH LOCATION	\$3,676 per application plus the actual cost of the bench and plaque (plus \$750 for future maintenance) plus \$2,005 if a public hearing is required.	3,676.00
S-062	ADOPTION OF EXISTING BENCH	\$1,560 per application plus the actual cost of the refurbished bench and plaque (plus \$750 for future maintenance) plus \$530 if a public hearing is required.	1,560.00
S-063	REPLACEMENT OF BENCH PLAQUE	\$1,209 per application plus the actual cost of the plaque plus \$530 if a public hearing is required.	1,209.00
Encroachment Permits			
S-069	TEMPORARY ENCROACHMENT PERMIT	\$ 453 per permit	453.00
S-070xa	STREET EXCAVATION (incl. street trench cut)	\$1,056 per permit, plus \$8.75/lineal foot of work being performed	1,056.00
S-070xb	STREET EXCAVATION - SEWER LINE LATERAL	\$ 250 per permit, plus \$8.75/lineal foot of work being performed	250.00
S-126	GRADING - PLAN REVIEW	Based on Public Works Construction Valuation	
S-127	GRADING - INSPECTION	Based on Public Works Construction Valuation	
S-128	PUBLIC IMPROVEMENTS - PLAN REVIEW	Based on Public Works Construction Valuation	
S-129	PUBLIC IMPROVEMENTS - INSPECTION	Based on Public Works Construction Valuation	
S-130	TRAFFIC ANALYSIS REVIEW	\$ 409 per application plus actual outside costs.	409.00
S-131	ADDITIONAL PLAN CHECK - PUBLIC WORKS	\$ 409 per application plus actual outside costs.	409.00

Fee Code	MASTER FEE SCHEDULE FOR THE 2026-2027 FISCAL YEAR, revised		Fee
S-070	PERMANENT ENCROACHMENT PERMIT	\$1,581 per permit plus \$8.75/lineal foot Plus cost of any damage to public right-of-way or street as determined by the Public Works Director Plus cost of and Design Study/Design Review as needed Plus cost of referral to City Council if needed.	1,581.00
S-070A	TRAFFIC CONTROL PLAN REVIEW/INSPECTION	\$1,296 per review plus \$405 per each additional review	1,296.00
	SIDEWALK VENDING PERMIT	\$ 469 per new applications	469.00
		\$ 231 per renewal	231.00
	USE OF ONLINE ELECTRONIC PAYMENT - CP&B DEPARTMENT	3.5% OF CHARGED AMOUNT	
	USE OF CREDIT CARD/ DEBIT CARD - CP&B DEPARTMENT	3.5% OF CHARGED AMOUNT	
PUBLIC WORKS/FORESTRY			
S-002B	TREE EVALUATION	\$ 250 per application	250.00
S-002Bx	TREE REMOVAL PERMIT - DEAD TREE	\$ 250 per permit	250.00
S-072	TREE REMOVAL PERMIT	\$1,631 per permit	1,631.00
S-072A	TREE PRUNING PERMIT	\$ 250 per permit	250.00
	PRUNING OR REMOVAL OF CITY TREE USING PRIVATE FUNDS UNDER CITY FORESTER INSTRUCTIONS	No permit fee required	0.00
S-072C	APPEAL TO FOREST & BEACH COMMISSION	\$3,331 per appeal plus actual outside costs ***	3,331.00
S-044A	APPEAL TO CITY COUNCIL	\$2,712 per appeal plus actual outside costs ***	2,712.00
S-073	REMOVAL OF PRIVATE TREE FALL IN PUBLIC RIGHT-OF-WAY	Charge the fully allocated hourly rate for all personnel involved plus any outside costs	
S-074	DAMAGE TO CITY PROPERTY	Charge the fully allocated hourly rate for all personnel involved plus any outside costs	
	USE OF ONLINE ELECTRONIC PAYMENT- PUBLIC WORKS DEPT	3.5% OF CHARGED AMOUNT	
	USE OF CREDIT CARD/ DEBIT CARD- PUBLIC WORKS DEPT	3.5% OF CHARGED AMOUNT	
PUBLIC SAFETY			
Police Services			
S-075	LOUD PARTY PUBLIC DISTURB. - 1st Response	First Response - No Charge	First Response
S-075xa	LOUD PARTY PUBLIC DISTURB. - 2nd Response	Second Response the same day - \$ 337 per response	337.00
S-075xb	LOUD PARTY PUBLIC DISTURB. - 3rd+ Response	Third Response within a calendar year - \$ 674 per response	674.00
S-076	POLICE FALSE ALARM - 1st RESPONSE	First Activation - \$ 154	154.00
S-076xa	POLICE FALSE ALARM - 2nd RESPONSE	Second Activation - \$ 185	185.00
S-076xb	POLICE FALSE ALARM - 3rd+ RESPONSE	Each Subsequent Activation in a calendar year - \$ 278	278.00
S-077	ALARM PERMIT - New	New - \$ 40 per permit	40.00
S-077xa	ALARM PERMIT - Renewal	Renewal - \$ 30 per permit	30.00
S-078	VEHICLE IMPOUND RELEASE	\$ 202 per vehicle	202.00
S-079	MISDEMEANOR BOOKING	Non-Carmel bookings - \$ 230 per booking	230.00
S-080	MISCELLANEOUS POLICE PERMIT	\$ 259 per application plus DOJ fees	259.00
S-081	FINGERPRINTING ON REQUEST	\$ 40 plus outside agency fees	40.00
S-082	CLEARANCE FORM TRAVEL LETTER	\$ 57 per letter	57.00
S-083	VIN VERIFICATION	\$ 63 per vehicle	63.00
S-084	CITATION SIGN-OFF	Non-Carmel citations - \$ 38 per citation	38.00
S-087	SIGN ABATEMENT	\$ 45 per sign	45.00
S-089	POLICE COURT WITNESS	Fees are set by the court	

Fee Code	MASTER FEE SCHEDULE FOR THE 2026-2027 FISCAL YEAR, revised		Fee
S-090	POLICE REPORT COPY	1st 10 pages - No Charge, Each additional page - \$1.00	1.00
S-091	POLICE PHOTOGRAPH COPY	Photo - \$ 6 per photo, digital - \$ 6 per disk	6.00
	USE OF ONLINE ELECTRONIC PAYMENT	3.5% OF CHARGED AMOUNT	
	USE OF CREDIT CARD/ DEBIT CARD	2.5% OF CHARGED AMOUNT	
Animal Services			
	ANIMAL IMPOUND	Within a calendar year:	
S-085	ANIMAL IMPOUND - 1st IMPOUND	First impound - \$ 117	117.00
S-085xa	ANIMAL IMPOUND - 2nd IMPOUND	Second impound - \$ 137	137.00
S-085xb	ANIMAL IMPOUND - 3rd+ IMPOUND	Third and subsequent impounds - \$ 161	161.00
S-086	ANIMAL TRANSPORT - Local	Local Transport - \$ 29 per transport	29.00
S-086xa	ANIMAL TRANSPORT - To County	To County Animal Shelter - \$ 104 per transport	104.00
Parking			
S-088	RESIDENT/EMPLOYEE PARKING PERMIT	\$ 40 per permit	40.00
		\$ 127 Misuse of Residential Permit	127.00
S-111xa	CONTRACTOR PARKING PERMIT - Non Specific	\$ 19 non specific	19.00
S-111xb	CONTRACTOR PARKING PERMIT - Specific	\$ 43 space specific	43.00
	NORTON COURT PARKING GARAGE	\$2,520 annually per space, \$630 quarterly per space	2,520.00
	USE OF ONLINE ELECTRONIC PAYMENT	3.5% OF CHARGED AMOUNT	
Fire Services			
	FIRE PLAN CHECK/ REVIEW/INSPECTIONS	Current fee schedule as adopted by City of Monterey Council	
	USE OF ONLINE ELECTRONIC PAYMENT	3.5% OF CHARGED AMOUNT	
	USE OF CREDIT CARD/ DEBIT CARD	2.5% OF CHARGED AMOUNT	
	AMBULANCE TRANSPORT SERVICES	Current fee schedule as adopted by Monterey County ambulance transport	
ADMINISTRATIVE SERVICES			
S-107	NEW BUSINESS REG. PROCESS - Fixed Location	Fixed Location - \$ 584 per application + \$4 State fee	584.00
S-107xa	NEW BUSINESS REG. PROCESS - In & About	In & About - \$ 40 per application + \$4 State fee	40.00
S-107xb	NEW BUSINESS REG. PROCESS - Home License	Home License - \$ 219 per application	219.00
S-108	BUSINESS REGISTER RENEWAL PROCESS	\$ 22 per renewal +\$4 State fee	22.00
S-109	DUPLICATE BUSINESS LICENSE	\$ 9 per license	9.00
S-110	CHANGE BUSINESS NAME	\$ 30 per business	30.00
	USE OF ONLINE ELECTRONIC PAYMENT	3.5% OF CHARGED AMOUNT	
Finance			
S-113	NSF CHECK PROCESSING	\$ 56 per NSF check	56.00
City Clerk			
S-114	DOCUMENT REPRODUCTION/SCANNING	First 10 copies - No Charge	First 10 copi
		Additional copies - \$0.25 per copy	0.25
		FPPC copies - \$0.15 per copy plus \$5 for retrieval of documents if more than five years old plus postage cost if mailed	0.15
S-115	ELECTRONIC FILE COPY	\$ 6 per device	6.00
S-116	DOCUMENT CERTIFICATION	\$ 12 per document	12.00
S-118	RECORD COMPILATION	Record Compilation/Creation - charge the fully allocated hourly rate for all personnel involved plus any outside costs.	
S-119	LOCAL CANDIDATE FILING	\$ 25 per candidate- Fee is set by the State	25.00
S-120	LOCAL INITIATIVE PROCESSING	\$ 200 per initiative- This fee is limited by the State Law - Elections Code Section 9202(b) - Fee is refundable to the filer, if within one year of filing the notice of intent, the elections official certifies the sufficiency of the petition.	200.00

Fee Code	MASTER FEE SCHEDULE FOR THE 2026-2027 FISCAL YEAR, revised		Fee
	USE OF ONLINE ELECTRONIC PAYMENT	3.5% OF CHARGED AMOUNT	
	USE OF CREDIT CARD/ DEBIT CARD	2.5% OF CHARGED AMOUNT	
	COMMUNITY ACTIVITIES		
S-092	BEACH SPECIAL EVENT PERMIT	Processing: Non-Profit/School - \$ 135 per permit	135.00
		Processing: Other - \$ 135 per permit	135.00
		Rental: Non-Profit/School - \$ 293 per rental plus \$500 refundable damage deposit	293.00
		Rental: Other - \$ 586 per rental plus \$500 refundable damage deposit	586.00
		Sounds Permit: Non-Profit/School - \$ 12 per permit	12.00
		Sounds Permit: Other - \$ 29 per permit	29.00
S-094	SPECIAL EVENT PERMIT	Processing: Non-Profit/School - \$ 211 per permit	211.00
		Processing: Other - \$ 405 per permit	405.00
		Rental: Non-Profit/School - \$ 293 per rental plus \$500 refundable damage deposit	293.00
		Rental: Other - \$ 586 per rental plus \$500 refundable damage deposit	586.00
		With Alcohol: Non-Profit/School - \$ 53 per permit	53.00
		With Alcohol: Other - \$ 211 per permit	211.00
		Sounds Permit: Non-Profit/School - \$ 12 per permit	12.00
		Sounds Permit: Other - \$ 29 per permit	29.00
S-095	SPECIAL EVENT OVERTIME SERVICES	Overtime Staff time: Non-Profit/School - Charge 25% of the fully allocated hourly rates for all personnel involved	
		Overtime Staff time: Other - Charge 100% of the fully allocated hourly rates for all personnel involved	
		Barricade Rental - \$1,171 Resident Block Party - No Charge	1,171.00
		Parking Stall Rental: Non-Profit/School - \$ 211 per permit plus \$100 per stall/day	211.00
		Parking Stall Rental: Other - \$861 per permit plus \$150 per stall/day	861.00
		Parking Stall Rental: Peak Demand Rental - \$300 per stall/day	
S-096	FILM PERMIT - Non-Profit	Non-Profit/Student - \$ 129	129.00
S-096xa	FILM PERMIT - Still	Other: Still Photo - \$ 385	385.00
S-096xb	FILM PERMIT - Motion Picture	Other: Motion Picture - \$ 655	655.00
S-097	COMMUNITY ACTIVITIES APPEAL	\$1,174 per appeal ***	1,174.00
S-099	FACILITY RENTAL	\$ 90 per hour plus \$125 refundable cleaning deposit	90.00
	USE OF ONLINE ELECTRONIC PAYMENT	3.5% OF CHARGED AMOUNT	
	USE OF CREDIT CARD/ DEBIT CARD	2.5% OF CHARGED AMOUNT	
	Library		
S-102	INTERLIBRARY LOAN PROCESSING	\$ 3 per item	3.00
S-104	LOST/DAMAGED MATERIALS PROCESSING	Actual cost of lost or damaged materials	
	SELF SERVE LIBRARY COPYING	Black and White - \$0.20 per copy	0.20
	City Wide		
	For services requested of City staff which have no fee listed in this fee schedule, the City Administrator or the City Administrator's designee shall determine the appropriate fee based on the hours of service provided by the City at the established hourly rates for this department. Additionally, the City will pass-through to the applicant any discrete costs incurred from the use of external service providers if required to process the specific application.		

Fee Code	MASTER FEE SCHEDULE FOR THE 2026-2027 FISCAL YEAR, revised	Fee
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- * Deposit determined by staff with charges at the fully allocated hourly rates for associated staff. May require a fee agreement.
- ** Costs to include charges at the fully allocated hourly rates plus any outside costs. May require a Fee Agreement.
- *** Plus legal costs related to appeal.

City Administrator Fee Waiver Authority

Written requests for fee waivers may be submitted in writing with a justification statement to the City Administrator or designee. Fee reductions or waivers may be granted for activities or uses determined by the City Administrator to be in the public interest, support a civic or community benefit, promote equity or access, or align with goals adopted by the City Council. Requests that do not meet these criteria require City Council approval. Fee waivers exceeding the City Administrator's signing authority shall also require City Council approval.

The following are examples of instances where services provided to individuals may be in the public interest:

- Inclusionary portions of proposed residential developments.
- Special Handing affordable housing projects.
- Persons age 62 or over on a fixed, very low income defined by Housing and Urban Development (HUD).
- Permit fees for the repair or reconstruction of property and structures damaged or destroyed by an act or event that has been declared a disaster by the City Council where insurance is inadequate to pay the applicable fees.
- Development, enhancement, expansion or modification of needed community facilities by non-profit organizations and community groups meeting the following criteria:
 - o The proposed project is available for use by the general public; and
 - o Provides a scope of benefit beyond the residents of the immediate vicinity; and
 - o Is of obvious public benefit. Evidence of public benefit include, but not limited to, projects that:
 - Meet a public need previously identified or recognized by the City Council;
 - Provide a public facility not presently available in the community;
 - Is authorized and non-discriminatory;
 - Have generated obvious, substantial community support; or
 - Would either reduce City costs or increase City revenue.
- Services being performed that benefit the City.

Fee Code	MASTER FEE SCHEDULE FOR THE 2026-2027 FISCAL YEAR, revised	Fee
	COMMUNITY PLANNING & BUILDING	
	Design Study and Review	
S-001	TRACK 1 DESIGN REVIEW/STUDY - MINOR	\$ 930 per application 930.00
S-002	TRACK 1 DESIGN REVIEW/STUDY - MAJOR	\$1,307 per application 1,307.00
S-002A	TRACK 1 DESIGN REVIEW/STUDY-STREAMLINE	\$ 314 per application 314.00
S-003	TRACK 1 DESIGN REVIEW/STUDY - REFERRAL TO PLANNING COMMISSION	\$2,267 per application in addition to the base Track 1 fee 2,267.00
S-003A	TRACK 1 DESIGN REVIEW/STUDY-REFERRAL TO HISTORIC RESOURCES BOARD	\$2,223 per application in addition to the base Track 1 fee 2,223.00
S-004	TRACK 2 DESIGN REVIEW - MINOR	\$5,010 per application plus deposit* if hours exceed 20 hours 5,010.00
S-005	TRACK 2 DESIGN REVIEW - MAJOR	\$7,571 per application plus deposit* if hours exceed 30 hours 7,571.00
S-005A	TRACK 2 DESIGN REVIEW - MAJOR NEW COMMERCIAL BUILDING	\$3,164 per application, plus a deposit* 3,164.00
S-121	ADDITIONAL PLAN CHECK - PLANNING	\$465 each, after three plan checks 465.00
S-006	PRELIMINARY SITE ASSESSMENT	\$1,914 per application 1,914.00
S-007	REASONABLE ACCOMMODATION	\$ 256 per application, plus fee for associated Design Study/Design Review as applicable 256.00
S-008	VOLUMETRIC ANALYSIS	\$ 180 per application, plus \$1,500 deposit toward costs ** with charges at the fully allocated hourly rates plus any outside costs. 180.00
	* Deposit determined by staff with charges at the fully allocated hourly rates for Project Planner.	
	Use Permit and Other Services	
S-009	USE PERMIT	\$3,922 per application 3,922.00
S-011	USE PERMIT AMENDMENT	\$3,506 per application 3,506.00
S-012	TEMPORARY USE PERMIT	\$ 212 per application 212.00
S-013	RESTRICTED COMMERCIAL USE TRANSFER REQUEST	\$ 776 per application 776.00
S-014	WATER CREDIT TRANSFER REQUEST	\$3,949 per application 3,949.00
S-015	VARIANCE	\$2,232 per application 2,232.00
S-017	PRELIMINARY APPLICATION REVIEW - STAFF	\$1,735 per application with 50% of this fee credited towards future planning fees for this project. 1,735.00
S-018	PRELIMINARY APPLICATION REVIEW - PUBLIC HEARING (PLANNING COMMISSION, CITY COUNCIL, ETC.)	\$4,750 per application with 50% of this fee credited towards future planning fees for this project. 4,750.00
S-019	COASTAL DEVELOPMENT PERMIT - DEVELOPMENT	\$ 238 per application - Added to other Planning fees 238.00
S-019A	COASTAL DEVELOPMENT PERMIT - EVENT	\$1,016 per application 1,016.00
S-060	LANDSCAPE PLAN CHECK/INSPECTION	\$1,016 per plan/inspection 875.00
	PLANNING TECHNICAL ASSISTANCE	Charge the fully allocated hourly rate for all personnel involved after 15 minutes.
	TOBACCO RETAIL LICENSE	Current fee as adopted by the Monterey County Board of Supervisors
	EXTRAORDINARY DEVELOPMENT	Deposit amount TBD based on scope of project **, with charges at the fully allocated hourly rates plus any outside costs
	Amendments, Annexations and Agreements	
S-020	SPECIFIC PLAN/SPECIFIC PLAN AMENDMENT	\$5,253 deposit toward costs **, with charges at the fully allocated hourly rates plus outside costs 5,253.00
S-022	GENERAL PLAN AMENDMENT	\$5,253 deposit toward costs **, with charges at the fully allocated hourly rates plus outside costs 5,253.00
S-023	SPHERE OF INFLUENCE AMENDMENT	\$5,253 deposit toward costs **, with charges at the fully allocated hourly rates plus outside costs 5,253.00
S-024	ZONING CODE AMENDMENT	\$5,253 deposit toward costs **, with charges at the fully allocated hourly rates plus outside costs 5,253.00

Fee Code	MASTER FEE SCHEDULE FOR THE 2026-2027 FISCAL YEAR, revised	Fee
S-025	ANNEXATION	\$10,506 deposit toward costs ** with charges at the fully allocated hourly rates plus outside costs
S-026	DEVELOPMENT AGREEMENT	\$10,506 deposit toward costs ** with charges at the fully allocated hourly rates plus outside costs
Environmental Review Maps and Lot Lines		
S-027	ENVIRONMENTAL REVIEW (IS/ND/EIR)	Contract cost plus 10%
S-028	FILING ENVIRONMENTAL NOTICE OF EXEMPTION	\$ 737 per application plus associated Monterey County fees
S-029	MITIGATION MONITORING	\$3,152 deposit toward costs ** with charges at the fully allocated hourly rates plus outside costs
S-030	TENTATIVE/FINAL MAP	\$4,202 deposit toward costs ** with charges at the fully allocated hourly rates plus outside costs
S-031	AMENDED FINAL MAP	\$1,051 deposit toward costs ** with charges at the fully allocated hourly rates plus outside costs
S-032	CERTIFICATE OF COMPLIANCE	\$1,018 per application plus actual contract cost
S-033	LOT LINE ADJUSTMENT/SUBDIV - PLANNING COMMISSION	\$1,340 per application plus actual contract cost
S-034	LOT MERGER	\$1,042 per application plus actual contract cost
Historic Evaluation		
S-035	PRELIMINARY PHASE 1 - INITIAL ASSESSMENT OF HISTORIC SIGNIFICANCE	\$ 402 per application plus Historian fee (currently \$474)
S-035A	PHASE 1 - HISTORIC EVALUATION	\$ 580 per application plus actual cost for Historian review with \$1,500 deposit
S-036	PHASE 2 - HISTORIC EVALUATION (INCLUDES HISTORIC RESOURCES BOARD HEARING)	\$2,567 per application plus actual cost for Historian review with \$1,500 deposit
S-037	APPEAL TO HISTORIC RESOURCES BOARD	\$2,053 per application plus actual cost for Historian review with \$1,500 deposit ***
S-038	MILLS ACT CONTRACT APPLICATION	\$4,293 per application plus actual cost to record contract with County of Monterey
	MILLS ACT MAINTENANCE PLAN REVIEW	\$1,051 deposit toward costs** with charges at the fully allocated hourly rates plus any outside costs for qualified professional to review plan.
	MILLS ACT 5-YEAR INSPECTION	\$ 525 deposit toward costs ** with charges at the fully allocated hourly rates plus any outside costs for qualified professional
	MILLS ACT 10-YEAR MAINTENANCE PLAN REVIEW	\$1,051 deposit toward costs** with charges at the fully allocated hourly rates plus any outside costs for qualified professional to review plan.
Determinations, Extensions and Appeals		
S-039	PLANNING COMMISSION CODE DETERMINATION	\$2,196 per application
S-040	ZONING COMPLIANCE DETERMINATION	Charge the fully allocated hourly rates for all personnel involved with a one hour minimum
S-041	PERMIT TIME EXTENSION - STAFF	\$ 538 per application
S-042	PERMIT TIME EXTENSION - PLANNING COMMISSION	\$1,349 per application
S-042A	PERMIT TIME EXTENSION - CITY COUNCIL	\$1,312 per application
S-043	PUBLIC HEARING CONTINUANCE - PLANNING COMMISSION	\$ 992 per continuance
S-043A	PUBLIC HEARING CONTINUANCE - COUNCIL	\$ 992 per continuance
S-044	APPEAL TO PLANNING COMMISSION	\$2,501 per appeal ***- No charge for appeals of Coastal Development Permits (CDPs) within the Coastal Commission Appeal Jurisdiction (CMC 17.20.140)
S-044A	APPEAL TO CITY COUNCIL	\$2,712 per appeal ***- No charge for appeals of Coastal Development Permits (CDPs) within the Coastal Commission Appeal Jurisdiction (CMC 17.20.140)

Fee Code	MASTER FEE SCHEDULE FOR THE 2026-2027 FISCAL YEAR, revised		Fee
	Sign and Banners		
S-045	SIGN APPLICATION	\$ 601 per application	601.00
S-046	SIGN REFERRAL TO PLANNING COMMISSION	\$1,907 per application	1,907.00
S-047	RELOCATE EXISTING SIGN	\$ 328 per application	328.00
	TEMPORARY SIGN PERMIT	No permit fee required	0.00
	BANNER APPLICATION	\$0 per application, applicant bears the fully burdened cost of installation through City approved third-party vendors	
	Building Services		
S-050	BUILDING RELOCATION	Deposit toward costs ** determined by staff with charges at the fully allocated hourly rates for all personnel involved plus any outside costs	
S-051	LARGE FAMILY DAY CARE (RESIDENTIAL)	\$3,216 per application	3,216.00
	GENERAL PLAN UPDATE	15. % of all Building & Safety permits	15.0%
S-054	BUILDING PLAN CHECK	Based on Building and Safety Construction Valuation	
S-122	ADDITIONAL PLAN CHECK - BUILDING	\$ 409 each, after three plan checks	409.00
S-054A	BUILDING INSPECTION	Based on Building and Safety Construction Valuation	
S-054B	BUILDING RE-INSPECTION	\$ 179 per re-inspection	179.00
S-123	OWNER BUILDER PLAN CHECK & INSPECTION	Based on Building and Safety Construction Valuation	
S-054C	BUILDING PERMIT APPLICATION EXTENSION	\$ 123 per extension (maximum of 4)	123.00
S-054D	BUILDING PERMIT EXTENSION	\$ 206 per extension (maximum of 2)	206.00
S-054E	BUILDING PERMIT PRE-APPLICATION CONFERENCE	\$ 464 per application	464.00
S-124	STORM WATER CONSTRUCTION INSPECTION - RESIDENTIAL	per winter season	374.00
S-125	STORM WATER CONSTRUCTION INSPECTION - COMMERCIAL	per weekly inspection	125.00
S-055	BUILDING SINGLE TRADE PERMIT	\$ 201 per permit	201.00
S-055A	ON-SITE DRIVEWAY PERMIT	\$ 512 per permit	512.00
S-056	SOLAR PLAN CHECK/INSPECTION PERMIT	Plan Check AND Inspection - \$ 450 plus \$15 per kW over 15kW (Per Assembly Bill 1414)	450.00
S-057	RE-ROOF PERMIT	\$ 332 per permit	332.00
S-058	BUILDING BOARD APPEAL	\$1,394 per appeal ***	1,394.00
S-059	DUPLICATE INSPECTION CARD	\$ 78 per card	78.00
	BUILDING TECHNICAL ASSISTANCE	Charge the fully allocated hourly rate for all personnel involved after 15 minutes.	
S-059B	STOP WORK INVESTIGATION	\$ 784 per investigation plus double all Building Permit fees	784.00
S-059C	TEMPORARY CERTIFICATE OF OCCUPANCY	\$ 281 per application	281.00
S-059D	ALTERNATE MATERIALS/METHODS REVIEW	\$ 277 per application plus actual cost of City Staff for all time over one hour.	277.00
S-059E	BUILDING PHASED WORK REQUEST	\$ 402 per application	402.00
0%	BUILDING TECHNOLOGY SURCHARGE	\$ 9 per permit	9.00
	Bench Program		
S-061	NEW BENCH LOCATION	\$3,676 per application plus the actual cost of the bench and plaque (plus \$750 for future maintenance) plus \$2,005 if a public hearing is required.	3,676.00
S-062	ADOPTION OF EXISTING BENCH	\$1,560 per application plus the actual cost of the refurbished bench and plaque (plus \$750 for future maintenance) plus \$530 if a public hearing is required.	1,560.00

Fee Code	MASTER FEE SCHEDULE FOR THE 2026-2027 FISCAL YEAR, revised		Fee
S-063	REPLACEMENT OF BENCH PLAQUE	\$1,209 per application plus the actual cost of the plaque plus \$530 if a public hearing is required.	1,209.00
Encroachment Permits			
S-069	TEMPORARY ENCROACHMENT PERMIT	\$ 453 per permit	453.00
S-070xa	STREET EXCAVATION (incl. street trench cut)	\$1,056 per permit, plus \$8.75/lineal foot of work being performed	1,056.00
S-070xb	STREET EXCAVATION - SEWER LINE LATERAL	\$ 250 per permit, plus \$8.75/lineal foot of work being performed	250.00
S-126	GRADING - PLAN REVIEW	Based on Public Works Construction Valuation	
S-127	GRADING - INSPECTION	Based on Public Works Construction Valuation	
S-128	PUBLIC IMPROVEMENTS - PLAN REVIEW	Based on Public Works Construction Valuation	
S-129	PUBLIC IMPROVEMENTS - INSPECTION	Based on Public Works Construction Valuation	
S-130	TRAFFIC ANALYSIS REVIEW	\$ 409 per application plus actual outside costs.	409.00
S-131	ADDITIONAL PLAN CHECK - PUBLIC WORKS	\$ 409 per application plus actual outside costs.	409.00
S-070	PERMANENT ENCROACHMENT PERMIT	\$1,581 per permit plus \$8.75/lineal foot Plus cost of any damage to public right-of-way or street as determined by the Public Works Director Plus cost of and Design Study/Design Review as needed Plus cost of referral to City Council if needed.	1,581.00
S-070A	TRAFFIC CONTROL PLAN REVIEW/INSPECTION	\$1,296 per review plus \$405 per each additional review	1,296.00
	SIDEWALK VENDING PERMIT	\$ 469 per new applications	469.00
		\$ 231 per renewal	231.00
	USE OF ONLINE ELECTRONIC PAYMENT - CP&B DEPARTMENT	3.5% OF CHARGED AMOUNT	
	USE OF CREDIT CARD/ DEBIT CARD - CP&B DEPARTMENT	3.5% OF CHARGED AMOUNT	
PUBLIC WORKS/FORESTRY			
S-002B	TREE EVALUATION	\$ 250 per application	250.00
S-002Bx	TREE REMOVAL PERMIT - DEAD TREE	\$ 250 per permit	250.00
S-072	TREE REMOVAL PERMIT	\$1,631 per permit	1,631.00
S-072A	TREE PRUNING PERMIT	\$ 250 per permit	250.00
	PRUNING OR REMOVAL OF CITY TREE USING PRIVATE FUNDS UNDER CITY FORESTER INSTRUCTIONS	No permit fee required	0.00
S-072C	APPEAL TO FOREST & BEACH COMMISSION	\$3,331 per appeal plus actual outside costs ***	3,331.00
S-044A	APPEAL TO CITY COUNCIL	\$2,712 per appeal plus actual outside costs ***	2,712.00
S-073	REMOVAL OF PRIVATE TREE FALL IN PUBLIC RIGHT-OF-WAY	Charge the fully allocated hourly rate for all personnel involved plus any outside costs	
S-074	DAMAGE TO CITY PROPERTY	Charge the fully allocated hourly rate for all personnel involved plus any outside costs	
	USE OF ONLINE ELECTRONIC PAYMENT- PUBLIC WORKS DEPT	3.5% OF CHARGED AMOUNT	
	USE OF CREDIT CARD/ DEBIT CARD- PUBLIC WORKS DEPT	3.5% OF CHARGED AMOUNT	
PUBLIC SAFETY			
Police Services			
S-075	LOUD PARTY PUBLIC DISTURB. - 1st Response	First Response - No Charge	First Respor
S-075xa	LOUD PARTY PUBLIC DISTURB. - 2nd Response	Second Response the same day - \$ 337 per response	337.00
S-075xb	LOUD PARTY PUBLIC DISTURB. - 3rd+ Response	Third Response within a calendar year - \$ 674 per response	674.00
S-076	POLICE FALSE ALARM - 1st RESPONSE	First Activation - \$ 154	154.00
S-076xa	POLICE FALSE ALARM - 2nd RESPONSE	Second Activation - \$ 185	185.00

Fee Code	MASTER FEE SCHEDULE FOR THE 2026-2027 FISCAL YEAR, revised		Fee
S-076xb	POLICE FALSE ALARM - 3rd+ RESPONSE	Each Subsequent Activation in a calendar year - \$ 278	278.00
S-077	ALARM PERMIT - New	New - \$ 40 per permit	40.00
S-077xa	ALARM PERMIT - Renewal	Renewal - \$ 30 per permit	30.00
S-078	VEHICLE IMPOUND RELEASE	\$ 202 per vehicle	202.00
S-079	MISDEMEANOR BOOKING	Non-Carmel bookings - \$ 230 per booking	230.00
S-080	MISCELLANEOUS POLICE PERMIT	\$ 259 per application plus DOJ fees	259.00
S-081	FINGERPRINTING ON REQUEST	\$ 40 plus outside agency fees	40.00
S-082	CLEARANCE FORM TRAVEL LETTER	\$ 57 per letter	57.00
S-083	VIN VERIFICATION	\$ 63 per vehicle	63.00
S-084	CITATION SIGN-OFF	Non-Carmel citations - \$ 38 per citation	38.00
S-087	SIGN ABATEMENT	\$ 45 per sign	45.00
S-089	POLICE COURT WITNESS	Fees are set by the court	
S-090	POLICE REPORT COPY	1st 10 pages - No Charge, Each additional page - \$1.00	1.00
S-091	POLICE PHOTOGRAPH COPY	Photo - \$ 6 per photo, digital - \$ 6 per disk	6.00
	USE OF ONLINE ELECTRONIC PAYMENT	3.5% OF CHARGED AMOUNT	
	USE OF CREDIT CARD/ DEBIT CARD	2.5% OF CHARGED AMOUNT	
Animal Services			
	ANIMAL IMPOUND	Within a calendar year:	
S-085	ANIMAL IMPOUND - 1st IMPOUND	First impound - \$ 117	117.00
S-085xa	ANIMAL IMPOUND - 2nd IMPOUND	Second impound - \$ 137	137.00
S-085xb	ANIMAL IMPOUND - 3rd+ IMPOUND	Third and subsequent impounds - \$ 161	161.00
S-086	ANIMAL TRANSPORT - Local	Local Transport - \$ 29 per transport	29.00
S-086xa	ANIMAL TRANSPORT - To County	To County Animal Shelter - \$ 104 per transport	104.00
Parking			
S-088	RESIDENT/EMPLOYEE PARKING PERMIT	\$ 40 per permit	40.00
		\$ 127 Misuse of Residential Permit	127.00
S-111xa	CONTRACTOR PARKING PERMIT - Non Specific	\$ 19 non specific	19.00
S-111xb	CONTRACTOR PARKING PERMIT - Specific	\$ 43 space specific	43.00
	NORTON COURT PARKING GARAGE	\$2,520 annually per space, \$630 quarterly per space	2,520.00
	USE OF ONLINE ELECTRONIC PAYMENT	3.5% OF CHARGED AMOUNT	
Fire Services			
	FIRE PLAN CHECK/ REVIEW/INSPECTIONS	Current fee schedule as adopted by City of Monterey Council	
	USE OF ONLINE ELECTRONIC PAYMENT	3.5% OF CHARGED AMOUNT	
	USE OF CREDIT CARD/ DEBIT CARD	2.5% OF CHARGED AMOUNT	
	AMBULANCE TRANSPORT SERVICES	Current fee schedule as adopted by Monterey County ambulance transport	
ADMINISTRATIVE SERVICES			
S-107	NEW BUSINESS REG. PROCESS - Fixed Location	Fixed Location - \$ 584 per application + \$4 State fee	584.00
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S-110	CHANGE BUSINESS NAME	\$ 30 per business	30.00
	USE OF ONLINE ELECTRONIC PAYMENT	3.5% OF CHARGED AMOUNT	
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City Clerk			
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	USE OF CREDIT CARD/ DEBIT CARD	2.5% OF CHARGED AMOUNT	
COMMUNITY ACTIVITIES			
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		Processing: Other - \$ 135 per permit	135.00
		Rental: Non-Profit/School - \$ 293 per rental plus \$500 refundable damage deposit	293.00
		Rental: Other - \$ 586 per rental plus \$500 refundable damage deposit	586.00
		Sounds Permit: Non-Profit/School - \$ 12 per permit	12.00
		Sounds Permit: Other - \$ 29 per permit	29.00
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		Processing: Other - \$ 405 per permit	405.00
		Rental: Non-Profit/School - \$ 293 per rental plus \$500 refundable damage deposit	293.00
		Rental: Other - \$ 586 per rental plus \$500 refundable damage deposit	586.00
		With Alcohol: Non-Profit/School - \$ 53 per permit	53.00
		With Alcohol: Other - \$ 211 per permit	211.00
		Sounds Permit: Non-Profit/School - \$ 12 per permit	12.00
		Sounds Permit: Other - \$ 29 per permit	29.00
S-095	SPECIAL EVENT OVERTIME SERVICES	Overtime Staff time: Non-Profit/School - Charge 25% of the fully allocated hourly rates for all personnel involved	
		Overtime Staff time: Other - Charge 100% of the fully allocated hourly rates for all personnel involved	
		Barricade Rental - \$1,171 Resident Block Party - No Charge	1,171.00
		Parking Stall Rental: Non-Profit/School - \$ 211 per permit plus \$100 per stall/day	211.00
		Parking Stall Rental: Other - \$861 per permit plus \$150 per stall/day	861.00
		Parking Stall Rental: Peak Demand Rental - \$300 per stall/day	
S-096	FILM PERMIT - Non-Profit	Non-Profit/Student - \$ 129	129.00
S-096xa	FILM PERMIT - Still	Other: Still Photo - \$ 385	385.00
S-096xb	FILM PERMIT - Motion Picture	Other: Motion Picture - \$ 655	655.00
S-097	COMMUNITY ACTIVITIES APPEAL	\$1,174 per appeal ***	1,174.00

Fee Code	MASTER FEE SCHEDULE FOR THE 2026-2027 FISCAL YEAR, revised		Fee
S-099	FACILITY RENTAL	\$ 90 per hour plus \$125 refundable cleaning deposit	90.00
	USE OF ONLINE ELECTRONIC PAYMENT	3.5% OF CHARGED AMOUNT	
	USE OF CREDIT CARD/ DEBIT CARD	2.5% OF CHARGED AMOUNT	
Library			
S-102	INTERLIBRARY LOAN PROCESSING	\$ 3 per item	3.00
S-104	LOST/DAMAGED MATERIALS PROCESSING	Actual cost of lost or damaged materials	
	SELF SERVE LIBRARY COPYING	Black and White - \$0.20 per copy	0.20
City Wide			
	For services requested of City staff which have no fee listed in this fee schedule, the City Administrator or the City Administrator's designee shall determine the appropriate fee based on the hours of service provided by the City at the established hourly rates for this department. Additionally, the City will pass-through to the applicant any discrete costs incurred from the use of external service providers if required to process the specific application.		

* Deposit determined by staff with charges at the fully allocated hourly rates for associated staff. May require a fee agreement.

** Costs to include charges at the fully allocated hourly rates plus any outside costs. May require a Fee Agreement.

*** Plus legal costs related to appeal.

City Administrator Fee Waiver Authority

Written requests for fee waivers may be submitted in writing with a justification statement to the City Administrator or designee. Fee reductions or waivers may be granted for activities or uses determined by the City Administrator to be in the public interest, support a civic or community benefit, promote equity or access, or align with goals adopted by the City Council. Requests that do not meet these criteria require City Council approval. Fee waivers exceeding the City Administrator's signing authority shall also require City Council approval.

The following are examples of instances where services provided to individuals may be in the public interest:

- Inclusionary portions of proposed residential developments.
- Special Handing affordable housing projects.
- Persons age 62 or over on a fixed, very low income defined by Housing and Urban Development (HUD).
- Permit fees for the repair or reconstruction of property and structures damaged or destroyed by an act or event that has been declared a disaster by the City Council where insurance is inadequate to pay the applicable fees.
- Development, enhancement, expansion or modification of needed community facilities by non-profit organizations and community groups meeting the following criteria:
 - o The proposed project is available for use by the general public; and
 - o Provides a scope of benefit beyond the residents of the immediate vicinity; and
 - o Is of obvious public benefit. Evidence of public benefit include, but not limited to, projects that:
 - Meet a public need previously identified or recognized by the City Council;
 - Provide a public facility not presently available in the community;
 - Is authorized and non-discriminatory;
 - Have generated obvious, substantial community support; or
 - Would either reduce City costs or increase City revenue.
- Services being performed that benefit the City.

Exhibit C - Revised Citation

		current	revised
	CODE	BAIL	BAIL
A - OVERTIME PARKING First Offence	10.32.060 CMC	40.00	48.00
Second Offence within 12 months		40.00	60.00
Third and subsequent Offence within 12 months		40.00	80.00



CITY OF CARMEL-BY-THE-SEA
City Council
Staff Report

August 4, 2026
ORDERS OF BUSINESS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Jayme Fields, Finance Manager

APPROVED BY: Brandon Swanson, Acting City Administrator

SUBJECT: Discussion and Direction on Financial Stewardship Workgroup ad hoc - ***Continued from July 7, 2026***

RECOMMENDATION:

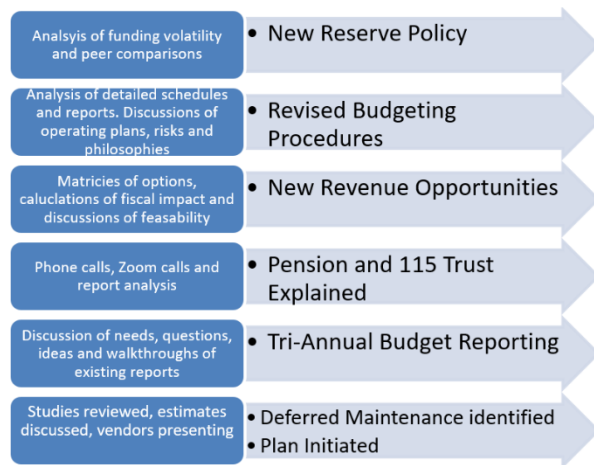
Discussion and Direction on Financial Stewardship Workgroup ad hoc

BACKGROUND / SUMMARY:

This report is being brought to the City Council per their instructions to do so once the 2026-2027 Budget was adopted so that the Council could evaluate the function of the Financial Stewardship Workgroup Ad Hoc.

The Financial Stewardship Workgroup ad hoc committee (“Workgroup”) was formed in February of 2025. The Council discussion highlighted the goals of greater public engagement, policy review, clearer budget presentations, and focusing on reporting improvements. The Workgroup took-on the Financial Sustainability strategic action item, which included exploring ways to enhance relevant policies for effective financial management, continued transparency, best practices and governance.

Together, Mayor Pro Tem Delves, Councilmember Buder, the City Administrator, the Assistant City Administrator and the Finance Manager met over twenty times in the ensuing sixteen months. Their work and outcomes were as follows:



Outcomes

As a result of the Workgroup's efforts, the City Council has new policies to use and update, and the Council is reviewing and maintaining a new budget process. The ongoing prioritization by the Council of the identified deferred maintenance is present in its strategic priorities, budgeting and operating decisions. The long outstanding question of revenue enhancement is at the forefront of Council's workflow.

Going Forward

With the adoption of the Fiscal Year 2026-2027 budget complete, the Council has indicated a desire to review and discuss the future of the Financial Stewardship Workgroup.

In past discussions, the Council debated whether creating a new financial-related Standing Committee might be needed. It would be helpful to look at how the various structures and responsibilities are defined:

- Financial Stewardship Workgroup (Ad Hoc) — Ad Hocs meet as needed without the posting of advanced agendas and minutes. They draft reports and recommendations, and present them to the Council for review, endorsement, or other action. Ad hocs are temporary, mission-focused, and composed of subject matter experts, stakeholders, or government officials brought together to tackle a specific acute problem, develop policy recommendations, or draft actionable plans.
 - Considerations: Allows for candid conversation and risk-free learning; Maximizes utilization of Council talent while minimizing time commitment; Low operating cost; Council must clearly define work to be accomplished.

- Finance Standing Committee — These Standing Committees meet publicly on a regular schedule, with agendas posted in advance, minutes and legal. These are typically advisory bodies who focus on fiscal governance, budget monitoring, and the financial health of the local government.
 - Considerations: Shows concern for fiscal health; Not flexible; Significant additional administrative overhead; May not be effective (based on Council member participation); Does not replace City Council.

- City Council — The Council has regularly scheduled public meetings, with agenda posted in advance, minutes and legal. It is responsible for adopting the budget, levying taxes and setting fees, approving contracts and expenditures, debt and reserve management, financial oversight and auditing, and setting policies. The existence of a Finance Committee duplicates these responsibilities but does not change them.
 - Considerations: Show concern for fiscal health; Most efficient, utilizing existing administrative overhead; Fully engages Council members in their primary responsibility;

The Brown Act allows for the appointment of an advisory committee also known as an ad hoc committee. The membership of an ad hoc committee is limited to two Council members. To be an ad hoc committee, the committee should have a defined task and be of limited duration. If a committee will have continuing subject matter jurisdiction, then that committee should be considered a standing committee subject to the requirements of the Brown Act including posting of agendas 72 hours in advance for regular meetings and 24 hours in advance for special meetings.

Based on these requirements of the Brown Act, if the Council intends to have a committee serve going forward on financial issues on a continuing basis, then a Standing Committee should be appointed and designated by a title such as "Finance Committee".

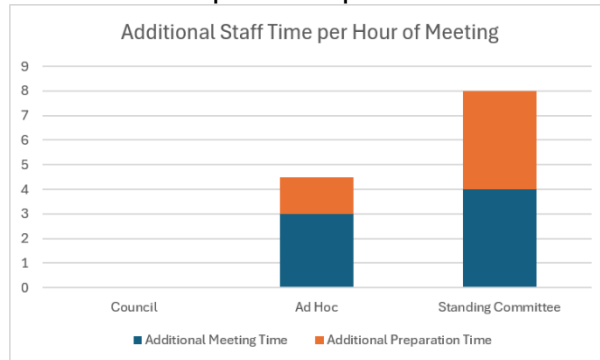
Based on the above, the Financial Stewardship Workgroup Ad Hoc was an example of maximizing the use of new talent and risk-free learning.

Note, similar to an Ad Hoc, a Finance Standing Committee should have a charter that defines what its duties are. By drafting a charter, we can come to understand whether the expected duties of a proposed committee are appropriate to the City's goals and we can understand whether a Standing Committee is the appropriate vehicle for achieving those goals.

Time vs Impact

As the City seeks to be more efficient in its operations, it is important to highlight the

potential impact that this decision has on operations. The time it takes to prepare for and hold additional meetings is different based on what type of meeting is being held. Below is a graph that compares the additional time that an Ad Hoc and a Standing Committee require compared to the time already invested in Council meetings.



The additional time to create and review packages, notices and minutes, and to host, attend and review public meetings, are in addition to increased hours of preparation and attendance by City Council members.

At the same time, the impact of the Ad Hoc/Standing Committee/Council decision is important. To gauge the impact of a Finance Standing Committee, we can look at another city's committee. Most small cities (including neighboring cities) do not have a Finance Standing Committee, as the financial operations are not complex and the City Council still must uphold its fiscal responsibilities. One exception is the City of Salinas. Per a quick review, most of their agendas over the last year had only one agenda item per meeting, including: fire apparatus purchase, residential sewer payment assistance program, housing permit processing update, sewer improvements update.

These are items that already naturally fall into the bucket of interest for the whole City Council so the question is whether their Finance Standing Committee is accomplishing significant work on these matters in addition to the City Council, as the responsibility for them still rests with the City Council.

Impact can also be measured in terms of how the public accesses the information, which may be gauged by attendance. Experience with other subcommittees would seem to indicate that the public participation in Finance Standing Committee meetings will be less (i.e. there will be fewer attendees) than at City Council meetings, thus pulling discussions from City Council meetings into Finance Standing Committee meetings could reduce the public's participation and access to the information.

Summary

However the Council chooses to proceed, the full City Council remains responsible for the financial condition of the City. The Financial Stewardship Workgroup Ad Hoc has handed them better tools. Along the way, the Workgroup has informed the public and

‘translated’ the public’s questions into policies and practices.

FISCAL IMPACT:

There is no fiscal impact from receiving this report.

PRIOR CITY COUNCIL ACTION:

City Council approved the formation of the Financial Stewardship Workgroup on February 3, 2025.

ATTACHMENTS:

None



CITY OF CARMEL-BY-THE-SEA
City Council
Staff Report

August 4, 2026
ORDERS OF BUSINESS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Shari Carlet, Acting Public Works Director

APPROVED BY: Brandon Swanson, Acting City Administrator

SUBJECT: Resolution 2026-060 Authorizing the City Administrator to Execute a Construction Contract with Silcon Constructors for the Beach Access 12th and 10thh Avenues Stairs Repair Project (Carmel Beach Coastal Protection and Access Improvement) BID # 25-26-007, for a total not-to-exceed amount of \$364,417.13 including base bid (\$223,149.70), Add Alternate (\$80,531.24), and Contingency (\$60,736.19)

RECOMMENDATION:

Adopt Resolution 2026-060 Authorizing the City Administrator to Execute a Construction Contract with Silcon Constructors for the Beach Access 12th and 10thh Avenues Stairs Repair Project (Carmel Beach Coastal Protection and Access Improvement) BID # 25-26-007, for a total not-to-exceed amount of \$364,417.13 including base bid (\$223,149.70), Add Alternate (\$80,531.24), and Contingency (\$60,736.19).

BACKGROUND / SUMMARY:

The Beach Access 12th Avenue Stairs Repair Project (Carmel Beach Coastal Protection and Access Improvement) was originally advertised under BID 25-26-006 and opened in May 2026. During the initial bid review, staff identified arithmetic errors in all submitted bids. On June 2, 2026, the City Council adopted Resolution 2026-039, formally rejecting all bids and directing staff to re-advertise the project.

In accordance with Council direction, staff re-advertised the project. New bids were opened on July 21, 2026, and four complete bids were received. Staff completed its

evaluation and confirmed that the second advertisement produced a responsive lowest responsible bidder.

Bid Tabulation Summary:

(Ordered with recommended contractor first)

Contractor: Silcon Construction (Lowest Bidder)

Base Bid: \$223,149.70

Add Alternate: \$80,531.24

Grand Total: \$303,680.94

20% Contingency: \$60,736.19

Total Recommended Project Authorization: \$364,417.13

Contractor: Wave Construction

Base Bid: \$228,555.00

Add Alternate: \$40,295.00

Grand Total: \$268,850.00

Contractor: Synergy Builders (Non-Responsive)

Base Bid: \$32,000.00

Add Alternate: \$77,000.00

Grand Total: \$109,000.00

Contractor: All Star Development

Base Bid: \$239,800.00

Add Alternate: \$52,200.00

Grand Total: \$292,000.00

Discussion:

Silcon Construction submitted the lowest responsible Base Bid of \$223,149.70. While Synergy Builders provided a lower numerical Base Bid, their proposal was deemed non-responsive because it did not include the full scope of work required.

Silcon Construction submitted the lowest responsible Base Bid of \$223,149.70. While Synergy Builders provided a lower numerical Base Bid, their proposal was determined to be non-responsive because it did not include the full scope of work required. The basis of award is the Base Bid, and Silcon Construction is the lowest responsible bidder; therefore, the award is recommended to be made to Silcon Construction.

FISCAL IMPACT:

Funding for the Beach Stairs Repair Project was originally allocated in the FY 2025-2026 Capital Improvement Program. As the project did not proceed last fiscal year, the existing funds will be carried over into FY 2026-2027, ensuring sufficient budget availability for award, contingency, and construction activities. No additional

appropriation is needed.

PRIOR CITY COUNCIL ACTION:

On June 2, 2026, the City Council considered the initial bid results for the Beach Access 12th Avenue Stairs Repair Project (BID 25-26-006). During the review of the submitted bids, staff identified arithmetic errors in all submitted bids. As a result, the City Council adopted Resolution 2026-039, formally rejecting all bids and directing staff to re-advertise the project to obtain accurate, responsive, and responsible proposals.

ATTACHMENTS:

1. Resolution 2026-060

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL**

RESOLUTION NO. 2026-060

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONSTRUCTION CONTRACT WITH SILCON CONSTRUCTORS FOR THE BEACH ACCESS 12TH AND 10TH AVENUES STAIRS REPAIR (CARMEL BEACH COASTAL PROTECTION AND ACCESS IMPROVEMENT) BID 25-26-007, FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$364,417.13 INCLUDING BASE BID (\$223,149.70), ADD ALTERNATE (\$80,531.24), AND CONTINGENCY (\$60,736.19)

WHEREAS, on April 17, 2026, the City advertised for the Beach Access Stairs bid; and

WHEREAS, five bids were received by the deadline on May 15, 2026; and

WHEREAS, upon evaluation, all five bids received had arithmetic errors; and

WHEREAS, the Council rejected all bids at the June 2, 2026 Council Meeting; and

WHEREAS, the project was re-advertised on June 12, 2026; and

WHEREAS, four bids were received by the deadline July 21, 2026; and

WHEREAS, the lowest bidder was Silcon Constructors with the lowest base bid of \$223,149.70.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

Authorize the City Administrator to execute a construction contract with Silcon Constructors, for the Beach Access 12th and 10th Avenues Stairs Repair (Carmel Beach Coastal Protection and Access Improvement) BID 25-26-007, for a total not-to-exceed amount of \$364,417.13 including Base Bid (\$223,149.70), Add Alternate (\$80,531.24), and contingency (\$60,736.19).

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 4th day of August, 2026, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dale Byrne, Mayor

Nova Romero, MMC, City Clerk



CITY OF CARMEL-BY-THE-SEA
City Council
Staff Report

August 4, 2026
ORDERS OF BUSINESS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Evan Kort, Senior Planner

APPROVED BY: Brandon Swanson, Acting City Administrator

SUBJECT: Discussion and policy direction regarding: the permitting of Accessory Dwelling Units (ADUs), and draft amendments to Title 17 relating to ADUs.

RECOMMENDATION:

Staff recommends the City Council conduct a policy discussion regarding Accessory Dwelling Units. The Council may also utilize this discussion to:

1. Provide staff with policy direction to staff regarding direction on an updated ordinance; and/or
2. Treat this discussion as a study session to identify specific policy topics for staff to research further before returning for formal direction at a later date.

Alternatively, the Council may opt to maintain the status quo and take no action at this time beyond conducting a general discussion.

BACKGROUND / SUMMARY:
EXECUTIVE SUMMARY

On June 1, 2026, the City Council considered an appeal of a Coastal Development Permit (APP 26134) for non-excluded development associated with the proposed construction of an Accessory Dwelling Unit (ADU). At the June 1st meeting, the Council moved to continue the item with direction to hold a dedicated policy discussion

pertaining to ADUs.

While the Council elected to act separately on the subject appeal at the July 6th meeting, this staff report provides the necessary background and framework for a broader policy discussion regarding the establishment of a formal citywide policy for Accessory Dwelling Units and the direction of the City's future ADU ordinance.

The concerns raised at the June 1 hearing included overall consistency with the City's Local Coastal Program (LCP) and general policy surrounding ADUs, as Council members noted that the City Council had not yet held a dedicated policy discussion to provide direction on a future ADU ordinance or establish a formal citywide policy.

*****NOTE: SB 477 STATUTORY RENUMBERING*****

In March 2024, the California Legislature enacted Senate Bill 477 as an urgency measure. SB 477 was signed by Governor Newsom on March 26, 2024, taking effect immediately. The bill's purpose was to make State law governing Accessory Dwelling Units ("ADUs") and Junior Accessory Dwelling Units ("JADUs") easier to read and navigate by relocating numerous Government Code sections into a new chapter and dividing key regulations into smaller sections by topic area.

SB 477's changes to State law were purely organizational; none were substantive. **As a result, some cited or quoted texts within this report, including attachments, may refer to Government Code sections that pre-dating SB 477 (formerly listed within Government Code Section 65852.2).** The regulations presently governing the creation of ADUs are now located in Government Code Sections 66310-66342. That is, code references to Government Code Section 65852.2 are now located Government Code Sections 66310-66342.

BACKGROUND & PROJECT DESCRIPTION

In December 2017, the City Council adopted Ordinance 2017-010 to implement the requirements of the Government Code pertaining to Accessory Dwelling Units. In February 2018, the City modified its Local Coastal Program Implementation Plan (Zoning Code) with revised standards related to ADUs.

The purpose of the 2018 amendment was to bring the City's LCP into compliance with applicable State laws addressing ADU regulation (refer to Attachment 1). These standards have remained in place since adoption in 2018 without further amendment.

Beginning in 2019, the California State Legislature passed a series of bills (Senate and Assembly Bills) reducing barriers to entry and streamlining the approval process for ADUs statewide.

For example, in 2019, AB 881 was enacted, which prohibited a local agency from establishing a maximum ADU size of less than 850 square feet (or 1,000 square feet for ADUs containing more than one bedroom) and required mandatory approval of permits for ADUs up to 800 square feet. AB 881 reaffirmed and amended sections of

Government Code Section 65852.2, which stated, in part:

If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

Based on this language, the City was led to believe that its local ADU Ordinance (Ord. 2017-010) was null, void, and no longer enforceable to the extent it conflicted with amended State provisions. Consequently, this led to a narrative that the city “does not have an ADU ordinance,” and the City began processing ADU applications as prescribed in the state statute. Following this belief, the council directed staff to prepare a revised local ADU Ordinance.

The earliest staff efforts on a revised/amended ordinance began around summer-2020; however, documentation from this period is minimal, and efforts appear to have stalled due to the COVID-19 pandemic.

In April 2021, the Planning Commission approved the first ADU that exceeded the site's base floor area. The City Council upheld an appeal of this decision in June 2021 (the ADU itself was not the subject of the appeal), leading to the issuance of the building permit in October 2021.

Beginning in October 2021, the City officially began issuing Building Permit applications for ADUs exceeding base floor area limits (refer to Attachment 2). Other deviations from the local ordinance in compliance with State statute likely commenced around this time.

Efforts to draft a revised ADU ordinance resumed in late 2021 and early 2022. As the Community Planning and Building Department gained momentum on a revised draft into 2023, staff identified a crucial provision in State law that had previously been overlooked.

Government Code Section 65852.2 included a specific subdivision regarding coastal jurisdiction:

"Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units."

Importantly, this provision had been included in previous state bills (including AB 881) and is mirrored directly in Carmel Municipal Code (CMC) Section 17.08.050.G.2.g:

"Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Section 30000 et

seq. of the Public Resources Code) or the City's certified local coastal plan, and the City shall modify and condition accessory dwelling unit coastal development permits accordingly to ensure consistency with such requirements, except that the City shall consider a coastal development permit application for an ADU ministerially without a public hearing. All accessory dwelling unit coastal development permits shall be appropriately noticed, including describing the procedures for appeal to the Coastal Commission as applicable." (CMC section 17.08.050.G.2.g)

Vague and ambiguous in application, interpreting this section has been a primary cause of delay in adopting a revised local ordinance over the last few years.

On January 21, 2022, the California Coastal Commission (CCC) published a memo titled Updates Regarding the Implementation of New ADU Laws (Attachment 3). The memo discussed Coastal Act authority, new State housing laws, streamlining procedures, and key considerations for LCP amendments.

Notable takeaways from the 2022 CCC memo include (emphasis added):

*Outside of an LCP context, existing or new J/ADU provisions that do not meet the requirements of the new legislation are null and void and will be substituted with the provisions of Section 65852.2(a) until the local government comes into compliance with new provisions. (Gov. Code § 65852.2(a)(4).) **However, existing [ADU and/or JADU] provisions contained in certified LCPs are not superseded by Government Code Section 65852.2 and continue to apply to Coastal Development Permit (CDP) applications for J/ADUs until the LCP is modified.** Coastal jurisdictions without any J/ADU provisions or with existing J/ADU provisions that were adopted prior to January 1, 2020 are encouraged to update their LCPs to comply with the State's new laws. Such new or updated LCP provisions need to ensure that new J/ADUs will protect coastal resources in the manner required by the Coastal Act and LCP...*

...

*Other recent legislative changes clarify that local [ADU and/or JADU] provisions may not require a minimum lot size; owner occupancy... fire sprinklers... a maximum square footage of less than 850 square feet... and in some cases, off-street parking... **As indicated above, in specific cases coastal resource considerations may negate some such requirements, but only when tied to a coastal resource impact that would not be allowed under the Coastal Act and/or the LCP.** In recent LCP amendments, these types of considerations have most often arisen in terms of the off-street parking provisions...*

Between November 2023 and September 2025, the Planning Commission held three public workshops to discuss a draft ADU ordinance. The associated staff reports with attachments are included as attachments 4-6. The latest draft version of the ordinance report is provided as Attachment 7 (standalone attachment). A policy paper which has

accompanied the ordinance has been included as Attachment 8. This policy paper has previously been shared with the Department of Housing and Community Development (HCD) and the Coastal Commission.

In the fall of 2024, the Legislature passed SB 1077, requiring the Coastal Commission, in coordination with the Department of Housing and Community Development (HCD), to develop formal guidance by July 1, 2026, to simplify LCP amendments for ADUs. City staff actively participated in the public comment periods, and the final joint guidance was officially published on July 1, 2026 (Attachment 9)

In summary the guidance provides that:

1. The California Coastal Commission strongly urges local governments to:

*A. **Review** existing ADU regulations in their LCPs.*

*B. **Add** new ADU policies and regulations in LCPs that have no such regulations or policies.*

*C. Expediently **update** any existing LCP policies regulating ADUs to conform with state ADU standards, in a manner that does not lessen the effect of the Coastal Act.*

2. Local governments should use any flexibility allowed by LCPs to modify standards that conflict with State ADU Law or make construction of ADUs more difficult, so long as doing so does not lessen the effect of the Coastal Act by causing impacts to sensitive coastal resources or public coastal access or putting residents or structures at risk of coastal hazards.

The guidance provides in detail, in part (emphasis added):

In the coastal zone, local governments must carry out State ADU Law in a manner that conforms with the Coastal Act. Because ADU ordinances affect zoning, design standards (e.g., height, setbacks, floor area), and other regulatory provisions governing development, local governments in the coastal zone should include them in their certified LCP in order to ensure protection of coastal resources... It is therefore imperative that local governments promptly review their LCPs and add or update ADU policies, as needed, to carry out the objectives of State ADU Law while also protecting significant coastal resources as required by the Coastal Act....

*...If an LCP does contain ADU regulations, but those regulations are outdated, the Commission recommends that jurisdictions should continue to carry out LCP policies to the extent needed to protect coastal resources. **However, the Commission encourages jurisdictions to be flexible in carrying out and interpreting their LCPs so that they can streamline the construction of ADUs without compromising coastal resource protections.** For example, if*

LCPs allow for variances from standards that make ADU construction more difficult, jurisdictions should consider granting the variances unless they would result in impacts to sensitive coastal resources or public coastal access or put residents at risk of coastal hazards.

By contrast, development standards, such as setbacks, that are designed to protect sensitive habitats or to ensure that development is safe from erosion or other coastal hazards should not be modified, as this would lessen the effect of the Coastal Act's resource protection policies.

The SB 1077 Guidance additionally provides clarity to local governments on how to update LCPs when adopting or revising an ADU ordinance.

Based on the complex historical and statutory context outlined in this report, staff recommends that the City Council conduct a policy discussion regarding Accessory Dwelling Units. The Council may utilize this discussion to establish preliminary policy direction, or use it as a scoping exercise to identify specific topics for staff to research further before returning for formal decision-making at a later date. The council may also opt to do nothing at this time and maintain status quo.

STAFF ANALYSIS

The City of Carmel-by-the-Sea is located entirely within the Coastal Zone and operates under a Certified Local Coastal Program (LCP). The California Coastal Commission granted final certification of Carmel's LCP on October 14, 2004, comprising a policy document the Land Use Plan (LUP) and an implementation mechanism, the Coastal Implementation Plan (CIP).

As described in Carmel's General Plan:

Carmel's General Plan has been combined with its Local Coastal Land Use Plan to ensure coordination of these two policy documents. The Coastal Land Use Plan sets forth goals, objectives, and policies that govern the use of land and water in Carmel-by-the-Sea consistent with Chapter 3 of the California Coastal Act of 1976 (as amended through January 2003). Chapter 3 of the California Coastal Act contains coastal resources planning and management policies that address public access, recreation, marine environment, land resources, development, and industrial development.

The City's LUP was certified as meeting Chapter 3 Coastal Act requirements to achieve state coastal goals under Section 30001.5. However, strict adherence to State ADU statutes directly conflicts with several core objectives, goals, and policies of Carmel's certified LCP and, by extension, the Coastal Act. While State ADU law mandates streamlined, ministerial approvals and standard size exemptions, Carmel's LCP imposes strict development controls that conflict with these mandates in both process and physical standards.

The Land Use Plan/General Plan (introduction) finds:

- **Community Character and Development.** *This Chapter of the General Plan covers topics required in the Land Use Element. This heading also includes policies for topics in sections 30244 and 30250 through 30254 of the Coastal Act.*
- **Circulation.** *This Chapter or Element of the General Plan is one of the seven elements required by California Statutes. Several of the policies in this element also implement provisions of the Coastal Act.*
- **Coastal Access and Recreation.** *This Chapter includes policies for topics covered in sections 30210 through 30224 of the Coastal Act.*
- **Coastal Resource Management.** *This Chapter of the General Plan includes policies for topics in sections 30230 through 30243 and 30251 of the Coastal Act. (LUP)*

Key Policy Considerations

A central area of interest for Council consideration is how floor area regulations apply to ADUs. LUP Policy P1-49 explicitly restricts built area on standard city lots:

Policy P1-49: *Limit above-grade floor area on 4,000 square foot lots to a maximum of 1,800 square feet. Projects with less above-grade square footage shall be preferred. Structural coverage shall not exceed 45% of the site. Total site coverage (structural and other impermeable coverage) on 4,000 square foot lots shall not exceed 55% of the site. Locate open space so that it visually links with adjacent properties. (LUP)*

Notably, Policy P1-49 was imposed upon the City by the Coastal Commission during the original LCP certification process to guarantee consistency with the Coastal Act; it was not a policy drafted by the City as part of the city's planning efforts when the city presented the Land Use Plan to the Coastal Commission for certification.

During the LCP certification proceedings in 2002 and 2003, the Coastal Commission required specific modifications to Carmel's LUP as a condition of certification.

In the November 21, 2002 and February 13, 2003 CCC staff reports (Attachments 10 and 11), the Commission introduced Modification 7:

*The Commission suggests that the following changes to the submitted City of Carmel-by-the-Sea Land Use Plan are necessary to make the requisite findings... [Modification] 7: **Add the following new policy under Residential Development Objective O9-3 on page 36:** Limit above grade floor area on single lots (i.e. 4,000 square feet) to a maximum of 1,600 square feet. Projects*

with less above grade square footage shall be preferred. Structural coverage shall not exceed 40% of the site. Total site coverage (structural and other impermeable coverage) on 4,000 square foot lots shall not exceed 50% of the site...

The Coastal Commission reports explained the necessity of these limits under the Coastal Act:

"...to achieve consistency with section 30253 [of the Coastal Act], the Commission recommends the following modification to the City's submitted LUP document: Modification 7... Thus, with the above required modifications, the Commission finds that the LUP Community Character policies are consistent with section 30253 of the Coastal Act."

"...Therefore, to assure consistency with Coastal Act sections 30230 and 30231 [water quality and marine resources], Modification 7 is necessary to require the 50% coverage limit on the 4,000 square foot lot."

While the City originally opposed the 1,600 square foot limit, the city eventually negotiated allowing 1,800 square feet of floor area, 45% structural coverage, and 55% total site coverage on 4,000 square foot lots, which was incorporated into final policy P1-49.

In conjunction with floor area limits imposed under Modification 7, the Coastal Commission also required Modification 27:

[Modification] 27: Add the following text to page 5, end of the second paragraph: *"The incorporated City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics."*

The Coastal Commission staff report noted (emphasis added): *"Modification 27 acknowledges the significance of City's unique character and designates Carmel a special community and highly scenic area for the purposes of Coastal Act Sections 30251, 30253, and 30610 along with corresponding regulation 13250. **This designation provides the basis for requiring coastal development permit review of development proposals that potentially impact historic and/or character resources.**"*

Carmel's character and protection status was debated by the Coastal Commission even pre-adoption of the city's LCP, as demonstrated in Attachment 12. A Coastal Commission staff report from pre-adoption of the city's LCP claims (Attachment 12):

In other words, Carmel's community character has not yet been defined. The reason for this is because such a definition, as well as a means to adequately

protect such character consistent with the Act, is best determined through a community and Commission review process culminating in a certified LCP. As previously described, although such a process is ongoing in Carmel, the LCP has not yet been completed.

The LCP certification process was completed approximately four years later with a number of policies in place designed to protect the character of Carmel-by-the-Sea consistent with the Coastal Act.

To understand how these LCP modifications now intersect with ADU proposals, the following provisions must be evaluated.

Coastal Act Section 30251 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural/and forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting

Coastal Act Section 30253 states:

New development shall ... (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

Sections 30610 and 13250 related to processes for Coastal Development Permits.

Under Government Code Section 66323, state law mandates approval of certain units, such as the illustrative example provided below:

- A detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling, with a total floor area limitation of not more than 800 square feet of livable space, and 16-feet tall or less, for example (Government Code 66323).

Government Code Section 66323(b) states, “A local agency shall not impose any objective development or design standard that is not authorized by this section upon any unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a).” The only design standards authorized by the section are those

described in the bulleted paragraph above.

This means, a city or county cannot apply design regulations to this type of unit (or units otherwise described in Gov. Code 66323). The state statute suggests local agency cannot require an ADU, such as the one described above, “to match” the primary dwelling, or apply any other type of design standard, to the construction of said unit. This is emphasized in the “ADU Handbook” published by HCD dated March 2026 (refer to Attachment 13) which states, in part, *“For example, 66323 Units do not have to comply with lot coverage, front setbacks, and design standards. However, these ADUs must comply with building code and health and safety requirements for dwellings.”* The statute also suggests that the city’s tree protection requirements could be overridden to develop such a unit, except that:

Nothing in this article shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall, pursuant to Section 66317, either approve or deny a coastal development permit application for an accessory dwelling within 60 days of receiving a completed application, and shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units. The process to approve or deny a coastal development permit application under this subdivision shall happen concurrently with the process to approve or deny an application for an accessory dwelling unit under Section 66317. (Gov. Code 66329)

Carmel's certified Land Use Plan explicitly enforce these coastal protections. For example, Land Use Plan/General Plan Policy requires:

O1-8 *Preserve the traditional characteristics of scale, good site design and sensitivity to neighboring sites in the single-family residential district through the design approval of new homes, additions and exterior remodeling. Encourage the construction of residences that are diverse and innovative in design yet compatible with the forest setting, site design and materials established by other structures within the neighborhood and adopted Residential Design Guidelines. (LUP)*

P1-47 *Apply the City’s Residential Design Guidelines that explain the qualities that are characteristic of the community to assist in the preparation and approval of plans for residential development through the design review process. Include provisions for scale, mass, bulk, height, setbacks, open space, landscaping, exterior materials, lighting and community character. Establish procedures for using the guidelines that will allow flexibility and creativity in architectural expression yet maintain continuity in the design character of the residential district. (LUP)*

P5-64 *New development shall be sited and designed to avoid or minimize significant adverse effects to the forest. Avoid projects that significantly increase*

building footprint to the detriment of trees. No grading, compaction of soils, construction of building walls or placement of impermeable surfaces within six feet of trees classified as significant shall be permitted. (LUP)

(Staff notes the policies listed above are not intended to be an exhaustive of all policies related to the referenced Coastal Act sections, and are illustrative for discussion).

These Coastal Act sections become particularly relevant when evaluating ADU exemptions against local resource protections, such as those described in the SB 1077 guidance (described in the background section of this report), and how the city will need to harmonize the requirements of the coastal act and the state ADU statute.

While staff is not suggesting that the City Council require full discretionary review against the Residential Design Guidelines for ADUs, these citations reinforce and implement Coastal Act Section 30253. In turn, reliance on the Coastal Act could provide the basis for the City to apply objective design standards and existing standards from the city's LCP to ADUs that would otherwise be exempt under the State statute.

Along the same line of reasoning, Policy P1-49 (governing floor area and site coverage limits) implements these identical Coastal Act provisions regarding community character, impervious surfaces, and water quality.

The City Council should weigh how to balance enforcement and/or updates of the city's certified LCP against the State's objectives for ADU production and provide direction to staff, as appropriate.

FISCAL IMPACT:

None for this action.

PRIOR CITY COUNCIL ACTION:

At their regularly scheduled meeting on August 6, 2024, the City Council received an update on development of the City's Accessory Dwelling Unit (ADU) Ordinance. The City Council has included updating the ADU Ordinance to their strategic priority list.

ATTACHMENTS:

1. Attachment 1 - Coastal Commission Certification of Ordinance 2017-010
2. Attachment 2 - Record of ADU Approvals (2017 - Present)
3. Attachment 3 - California Coastal Commission Memo (January 2022)
4. Attachment 4 - Planning Commission Workshop 1 Staff Report (11-15-2023) with Draft Ordinance v1
5. Attachment 5 - Planning Commission Workshop 2 Staff Report (11-13-2024) with Attachments
6. Attachment 6 - Planning Commission Workshop 3 Staff Report (9-25-25) without Attachments

7. Attachment 7 - Current Draft of Draft ADU Ordinance (edits as of 9-25-25)
8. Attachment 8 - Draft ADU Policy Paper
9. Attachment 9 - SB 1077 Final Guidance Document (July 1, 2026)
10. Attachment 10 - Coastal Commission Staff Report (Nov. 2002)
11. Attachment 11 - Coastal Commission Staff Report (Feb. 2003)
12. Attachment 12 - Coastal Commission Staff Report (Nov. 2000)
13. Attachment 13 - ADU Handbook (March 2026)

CALIFORNIA COASTAL COMMISSION

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W19c

Prepared January 19, 2018 for February 7, 2018 Hearing

To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager
Mike Watson, Coastal Planner

**Subject: De Minimis Amendment Determination for City of Carmel-by-the-Sea LCP
Amendment Number LCP-3-CML-17-0059-2 (Accessory Dwelling Units)**

Proposed Amendment

The City of Carmel-by-the-Sea is proposing to modify the Local Coastal Program (LCP) Implementation Plan (IP) to revise standards related to accessory dwelling units (ADUs). The proposed amendment would modify existing standards and add new standards for ADUs, including with respect to height, lot coverage, setback, floor area ratio, and parking. The purpose of the proposed amendment language is to bring the City's LCP into compliance with applicable State laws addressing ADU regulation. See **Exhibit A** for the text of proposed IP amendment.

De Minimis LCP Amendment Determination

Pursuant to Coastal Act Section 30514(d), the Executive Director may determine that a proposed LCP amendment is "de minimis." In order to qualify as a de minimis amendment, the amendment must meet the following three criteria:

1. The Executive Director determines that the proposed amendment would have no impact, either individually or cumulatively, on coastal resources, and that it is consistent with the policies of Chapter 3;
2. The local government provides public notice of the proposed amendment at least 21 days prior to submitting the amendment to the Commission, by one of the following methods: posting on-site and off-site in the affected area, newspaper publication, or direct mailing to owners and occupants of contiguous property; and
3. The amendment does not propose any change in use of land or water or allowable use of property.

If the Executive Director determines that an amendment is de minimis, that determination must be reported to the Commission. If three or more Commissioners object to the de minimis LCP amendment determination, then the amendment shall be set for a future public hearing; if three or

LCP-3-CML-17-0059-2 (Accessory Dwelling Units)

more Commissioners do not object to the de minimis determination, then the amendment is deemed approved, and it becomes a certified part of the LCP ten days after the date of the Commission meeting (in this case, on February 7, 2018).

The purpose of this notice is to advise interested parties of the Executive Director's determination that the proposed LCP amendment is de minimis. Each of the de minimis criteria is discussed briefly below:

1. **No impact to coastal resources and consistency with Chapter 3 of the Coastal Act:** The proposed amendment would modify and add standards for ADUs within the City, which is entirely within the coastal zone. Specifically, the amendment requires ADUs to conform with all applicable requirements of the underlying residential zoning district in which they are allowed, including with respect to height, setback, lot coverage, floor area ratio, landscaping, and historic preservation requirements. The amendment maintains the LCP's existing requirement that no residential uses, including ADUs, within the City can be used for transient rental (i.e., less than 30 consecutive days). The amendment also allows for a relaxation of required off-street parking if the ADU meets certain criteria, including if it is located within one-half mile of a public transit stop, located within an existing primary residence, or located within an existing accessory structure, consistent with State ADU law in this regard. Finally, in all cases, the amendment requires ADUs to be consistent with the Coastal Act and LCP, including with respect to coastal development permit (CDP) notice and appeal procedures.

The proposed amendment allows for ADUs on lots already built with existing primary residences, and subject to the LCP's strict siting and design criteria, including ensuring that both the ADU and the primary residence be consistent with applicable lot coverage, height, and floor area ratio requirements. The amendment thus generally allows for infill residential development within Carmel's existing residential neighborhoods, while ensuring that ADUs are consistent with the City's unique character and design. The City has also indicated that the amendment's explicit requirement that ADUs be consistent with the Coastal Act and LCP will appropriately address any potential coastal resource concerns, including on public coastal access and parking (e.g., requiring development cumulatively meet all site development standards (i.e., parking, site coverage, floor area ratio, etc.) or otherwise mitigating for potential public access impacts). Finally, while public hearings are not required for ADU CDPs, such CDPs would still be appealable to the Commission if located within the geographic appeals area, and the City indicates that they will appropriately notice such CDPs of the applicable appeal procedures.

Thus, the proposed amendment will not adversely affect coastal resources, and it is consistent with the policies of Chapter 3 of the Coastal Act.

2. **Provision of public notice:** The City provided public notice in advance of the City Council hearings (held on October 3, 2017 and December 5, 2017) where the proposed amendment was considered. For the City Council hearings, a newspaper advertisement notice was printed on September 22, 2017 and November 24, 2017. The amendment submittal was subsequently

received by the Commission on January 11, 2018 (and filed as complete on January 11, 2018), and therefore, the 21-day noticing requirement has been satisfied.

3. **No change in use of land or allowable use of property:** No change in use is proposed by this amendment because ADUs (the LCP currently calls them “subordinate units”) are currently allowed within the City’s residential zoning districts.

California Environmental Quality Act (CEQA)

The Coastal Commission’s review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA (14 CCR Section 15251(f)). The City exempted the proposed amendment from environmental review under CEQA (*See* Pub. Res. Code Section 21080.9). This report has discussed the relevant coastal resource issues with the proposal, and has concluded that the proposed LCP amendment is not expected to result in any significant adverse impact on the environment. Thus, it is unnecessary for the Commission to suggest modifications to the proposed amendment to address adverse environmental impacts because the proposed amendment, as submitted, will not result in any significant environmental effects for which feasible mitigation measures would be required.

Coastal Commission Concurrence

The Executive Director will report this de minimis LCP amendment determination, and any comments received on it, to the Coastal Commission at its February 7, 2018 in Cambria. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Mike Watson at the Central Coast District Office in Santa Cruz. If you wish to comment on and/or object to the proposed de minimis LCP amendment determination, please do so by February 2, 2018.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on January 11, 2018. It amends the IP only and the 60-day action deadline is March 12, 2018. (*See* Pub. Res. Code Sections 30513, 30514(b).) Thus, unless the Commission extends the action deadline (it may be extended by up to one year per Pub. Res. Code Section 30517), the Commission has until March 12, 2018 to take a final action on this LCP amendment.

Exhibit

Exhibit A: Proposed Amendment Text

CALIFORNIA COASTAL COMMISSION

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W19c

LCP-3-CML-17-0059-2 (ACCESSORY DWELLING UNITS)

FEBRUARY 7, 2018 HEARING

EXHIBITS

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Exhibit A: Adopted Ordinance and Proposed Amendment Text



STATE OF CALIFORNIA)
COUNTY OF MONTEREY)
CITY OF CARMEL-BY-THE-SEA) CERTIFIED COPY OF ORDINANCE

I, Ashlee Wright, City Clerk for the City of Carmel-by-the-Sea in said County of Monterey, and State of California, do hereby certify Ordinance No. 2017-010, the original of which is attached hereto, was introduced on first reading on the 3rd day of October, 2017; adopted on second reading on the 5th day of December, 2017; and was published in accordance with the provisions of the Carmel-by-the-Sea Municipal Code on the 15th day of December, 2017, by the following vote:

AYES: Hardy, Reimers, Richards, Theis, Dallas
NOES: None
ABSTAIN: None
ABSENT: None

Said ordinance is effective as of 4th day of January, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Carmel-by-the-Sea, this 27th day of December, 2017.


Ashlee Wright, City Clerk

CITY OF CARMEL-BY-THE-SEA

CITY COUNCIL

ORDINANCE NO. 2017-010

AN ORDINANCE (SECOND READING) AMENDING MUNICIPAL CODE SECTIONS 17.08
(RESIDENTIAL ZONING DISTRICT) AND 17.68 (USE CLASSIFICATIONS) PERTAINING TO
ACCESSORY DWELLING UNITS IN RESPONSE TO RECENTLY ADOPTED STATE LEGISLATION

WHEREAS, The City of Carmel-by-the-Sea is a unique community that prides itself in its community character; and

WHEREAS, In 2016 the California Legislature enacted Assembly Bill 2299 and Senate Bill 1069 amending Government Code section 65852.2 pertaining to local government regulation of accessory dwelling unit (ADU) construction; and

WHEREAS, it is the intent of the state amendments to Government Code section 65852.2 to create more affordable rental housing opportunities and it is the intent of these revisions to provide those affordable rental housing opportunities; and

WHEREAS, SB 1069 and AB2299 amend Government Code section 65852.2 effective January 1, 2017 and provide that to the extent that an accessory dwelling unit ordinance fails to meet the requirements of SB1069 and AB2299, its ordinance will be null and void unless and until the agency adopts an ordinance that complies with Government Code Section 65852.2, as amended; and

WHEREAS, the City's existing ordinances pertaining to accessory dwelling units is not consistent with the provisions of SB1069 and AB2922 and must be amended; and

WHEREAS, the City's Zoning Ordinance is also its Local Coastal Program; and

WHEREAS, the City certifies that the amendments are intended to be carried out in a manner fully in conformance with the Coastal Act; and

WHEREAS, this ordinance is an amendment to titles 17.08 and 17.68 of the City's Zoning Ordinance/Local Coastal Implementation Plan and requires certification by the California Coastal Commission; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 11, 2017 at which time it considered all evidence presented, both written and oral and at the end of the hearing voted to adopt a resolution recommending that the City Council adopt this Ordinance.

WHEREAS, the City Council held a duly noticed public hearing on October 3, 2017 at which time it conducted a first reading of the Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES ORDAIN AS FOLLOWS:

SECTION 1. Titles 17.08 (Residential Zoning District) and 17.68 (Use Classifications) of the Municipal Code of the City of Carmel-by-the-Sea are amended as shown in Exhibit "A" attached hereto and incorporated herein.

SECTION 2. All references to "Subordinate Unit" in the City's Municipal Code shall be changed to "Accessory Dwelling Unit".

SECTION 3. CEQA Findings. The Community Planning and Building Department has determined that the project is statutorily exempt from the California Environmental Quality Act (CEQA) as provided by Public Resources Code Section 21080.17, because it is the adoption of an ordinance by a city to implement the provisions of Section 65852.2 of the Government Code.

SECTION 4. Severability. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

SECTION 4. Effective Date. This ordinance shall take effect thirty (30) days after adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 5th day of December 2017, by the following roll call vote:

AYES: Hardy, Reimers, Richards, Theis, Dallas

NOES: None

ABSENT: None

APPROVED:



STEVE DALLAS, Mayor

ATTEST:



ASHLEE WRIGHT, City Clerk

17.68.030 Residential Use Classifications.

Residential Housing Types.

Single-Family Dwelling. One dwelling, attached or detached, located on a single building site, containing only one kitchen, designed for or used to house not more than one family – including all domestic employees of the family – and associated facilities for parking, living, sleeping, cooking, and eating.

Accessory Buildings and Structures: Accessory buildings and structures include Interior Accessory Dwelling Units, New Structure Accessory Dwelling Units, Class I Accessory Dwelling Units, Class II Accessory Dwelling Units, Garages, Guesthouses, Sheds, Studios, Multifamily Dwellings, and Senior Citizen Housing.

Accessory Dwelling Unit.–An attached or detached residential dwelling which provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, which is located on the same parcel as a single-family dwelling. An accessory dwelling unit may consist of an efficiency unit, as defined in Health and Safety Code section 17958.1; or a manufactured home, as defined in Health and Safety Code Section 18007 that is located on a single lot with another primary, single-family dwelling and that provides complete independent living facilities for one or more persons. These units include permanent provisions for living, sleeping, cooking and sanitation.

Accessory Dwelling Unit, Interior: An accessory dwelling unit which is constructed entirely within the existing and legally created space of a single-family home or accessory structure.

Accessory Dwelling Unit, New Structure: An accessory dwelling unit which is constructed either as a new detached accessory structure or as an addition to an existing single family home or an existing accessory structure.

Class I. Subordinate Accessory Dwelling units are legal nonconforming units that were established prior to June 5, 1929. These units were legally established and require no permit. These units were originally classified as subordinate units.

Class II. Subordinate Accessory Dwelling units are legal nonconforming units that were established prior to April 5, 1988, and registered with the City by December 6, 1994. These units typically were built without City approval but were then legalized and brought to minimum health and safety standards through an amnesty period and registration. These units were originally classified as subordinate units.

~~*Class III.* Subordinate units that did not exist prior to 1988 but which may be established with a use permit for a recognized hardship resulting from the needs of an infirm or handicapped person who must live with or near a companion in separate, self-contained facilities.~~

~~*Class IV.* Subordinate units that did not exist prior to 1995 but which may be established on building sites of at least 8,000 square feet to provide affordable housing.~~

Studio. An attached or detached residential dwelling unit without kitchen or cooking facilities, designed for accessory uses by occupants of the dwelling to which it is accessory, and not designed or intended for living, sleeping and/or cooking. Studios are permitted to have a bathroom with a sink and toilet. Studios that are attached to the primary dwelling are not required to have interaccessibility with the primary dwelling.

Guesthouse (Noncommercial). An attached or detached residential dwelling unit without kitchen or cooking facilities, designed ~~to be used~~ for use, including living and sleeping, by occupants of the dwelling to which it is accessory and their guests or ~~servants~~ persons employed on the premises, and not designed for cooking. Guesthouses that are attached to the primary dwelling are not required to have interaccessibility with the primary dwelling. A detached garage containing one or more rooms used or adapted for use as human habitation will be considered a guesthouse.

Multifamily Dwelling. A building or group of buildings on a single building site that contains two or more dwellings, each with its own facilities for parking, living, sleeping, cooking, and eating. This classification includes condominiums, townhouses, and apartments.

Senior Citizen Housing. Housing provided for senior citizens as defined by the State of California (California Civil Code Section 51.3).

17.08.040 Land Use Regulations.

Schedule II-1 Land Use Regulations for Residential Districts			
P = Permitted Use L = Limitations Apply C = Conditional Use Permit Required	R-1	R-4	Additional Regulations
Residential			See CMC <u>17.08.060</u>
Single-Family	P	P	See CMC <u>17.08.050</u> (D), (G)
Subordinate <u>Accessory Dwelling</u> Units			See CMC <u>17.08.050</u> (F)
<u>Accessory Dwelling Unit, Interior</u>	<u>P</u>	<u>P</u>	
<u>Accessory Dwelling Unit, New Structure</u>	<u>P</u>	<u>P</u>	
Class I <u>Accessory Dwelling Unit</u>	P	–	
Class II <u>Accessory Dwelling Unit</u>	P	–	
Class III	C	–	
Class IV	P	–	
<u>Studio</u>	<u>P</u>	<u>P</u>	
Guesthouse (Noncommercial)	C	–	See CMC <u>17.08.050</u> (C)
Multifamily Dwellings			See CMC <u>17.08.050</u> (E)
0 – 22 dwelling units/acre	–	P	
22 dwelling units/acre	–	C	
Senior Citizen Housing	L-5	P	
Family Day Care			
Small Family	L-5	P	
Large Family	–	C-4	See CMC <u>17.08.050</u> (B)
Group Residential	–	C	

17.08.050 Additional Use Regulations.

A. Accessory Buildings and Structures.

1. Except as provided in CMC 17.10.040, Lot Mergers, no more than two accessory structures may be constructed on each building site.
2. ~~No accessory structure shall exceed 400 square feet in floor area except: (1) as provided for guesthouses, and (2) as provided in subsection (A)(3) of this section.~~ Accessory buildings and structures shall not exceed 400 square feet in floor area except: (1) as provided for guesthouses, (2) as provided for Interior Accessory Dwelling Units and New Structure Accessory Dwelling Units, and (3) as provided in subsection (A)(3) of this section.
3. Two accessory structures (such as a garage and a guesthouse) may be combined into a single structure as long as the combined floor area does not exceed what would be allowed for two independent structures and does not exceed 75 percent of the floor area of the primary structure. All accessory structures exceeding five feet in height shall count as floor area. Storage sheds of 120 square feet or less and containing no plumbing or electrical connections shall not require a building permit.

B. Family Day Care, Large Family. The following additional regulations shall apply to the operation of large family day care homes serving seven to 12 persons.

1. Standards. All large family day care homes shall comply with all applicable State standards and requirements for family day care homes. In addition, all large family day care homes shall comply with the following standards:
 - a. Outdoor Play Area. All outdoor play areas shall be enclosed by a natural barrier, wall, solid fence, or other solid structure at least six feet in height, and all outdoor play areas shall be adequately separated from driveways, streets and parking areas.
 - b. Parking and Traffic. Adequate parking shall be provided for employees of the large family day care home and for pick-up and drop-off of children at the home in accordance with the following standards:
 - i. In addition to the off-street parking spaces required for the residential zone, one additional off-street parking space shall be provided per employee.

- ii. Adequate space shall be available for safe pick-up and delivery of children to the day care home. This space shall be off-street, but can be in the driveway or off-street parking area.

2. Inspections Required. The Fire Department and Building Official shall conduct an on-site inspection that includes but is not limited to:

- a. Gas water heaters, to ensure proper ventilation and permanent installation that is safe from children;
- b. Fire extinguishers and smoke detectors, to ensure that they meet standards established by the State Fire Marshal;
- c. Refrigerators, to ensure that they are properly sealed shut if not in use and/or contain a locking device if in use; and
- d. All potential fire and safety hazards that may endanger the children at the large family day care home.

C. Guesthouses. One guesthouse may be authorized on sites of 6,000 square feet or greater upon approval of a use permit. Guesthouses shall contain no food preparation facilities of any kind, but are permitted to have a bathroom with a toilet, sink and bathing facility. A guesthouse on any building site of ~~8,000 square feet or greater~~ may be converted to an subordinate accessory dwelling unit (see subsection (F) of this section) upon approval of an ADU permit. A legal ~~subordinate accessory dwelling unit~~ may be converted to a guesthouse upon approval of a use permit. ~~No site shall contain both a guesthouse and an accessory dwelling subordinate unit or studio except as provided under hardship conditions (see subsection (F) of this section).~~ Lots with ADUs shall be prohibited from constructing, maintaining and/or building guesthouses or studios.

Table 17.08-B – Maximum Floor Area for Guesthouses			
Lot Type/Size	Base Size of Guesthouse	Plus Increment Based on Lot Size	Equals Maximum Floor Area
6,000 square feet or larger	400 square feet	(lot area over 6,000) x 1.5%	Allowed Size
Merged lots of at least 8,000 square feet	500 square feet	(lot area over 6,000) x 1.5%	Allowed Size
Example: 7,500-square-foot lot	400 square feet	(1,500 sq. ft.) x 1.5%	422 sq. ft.

D. Studios. One studio may be authorized on lots in the Single-Family Residential Zone as a permitted use. Studios shall contain no living, sleeping, bathing or food preparation facilities of any kind, but are permitted to have a bathroom with a sink and toilet. Studios that are attached to the primary dwelling are not required to have interaccessibility with the primary dwelling. No additional parking is required for a studio. Studios shall be a maximum size of 400 square feet and shall not exceed the allowed floor area ratio for the lot.

~~DE~~. Home Occupations. All home occupations require a business license. Home occupations are limited to the use of up to two rooms in a single-family dwelling by a person residing therein as the studio of an artist, writer or musician, or by a teacher of the arts having up to two pupils under instruction at any one time. For this section, the arts shall include only the following: painting, graphics, computer graphics, music, dance, drama, sculpture, writing, photography, weaving, ceramics, needlecraft, jewelry, glass and metal crafts. The Director may authorize other home occupations that:

1. Are limited to office machines such as telephone and/or computer use;
2. Do not involve deliveries more frequently than once per week;
3. Do not involve the parking, use or storage of any commercial vehicles;
4. Do not involve visits by customers, vendors, attendees, salespeople or employees of the business;
- and
5. Are fully contained within one or two rooms in a single-family dwelling and are not located in a garage.

~~EE~~. Multifamily Dwellings.

1. All multifamily residential projects shall require the preparation of an acoustical analysis and the implementation of acoustical design treatments to meet noise standards contained in Title 25 of the California Government Code.
2. All multifamily projects shall have a minimum per unit size of 400 square feet.
3. At least 25 percent of all units in a multifamily project containing more than two units shall be of a size between 400 square feet and 650 square feet in floor area.

FG. Accessory Dwelling Units.

1. A building permit must be issued by the City prior to construction and/or development of any accessory dwelling unit.

2. All accessory dwelling units shall conform with the following:

a. The lot must contain an existing single-family home and no other dwelling units. No more than one accessory dwelling unit may be constructed on any lot.

b. At the time of application, the property owner shall acknowledge in writing that:

(1) The accessory dwelling unit may not be sold separately from the existing single-family home;
(2) either the existing single-family home or the accessory dwelling unit must be owner-occupied;
and (3) neither the accessory dwelling unit nor the single-family home may be used for transient residential rentals.

Prior to issuance of a building permit for the accessory dwelling unit, the owner shall record a covenant in a form approved by the City to notify future owners of the requirements of this paragraph (b).

c. Except as modified by this subsection G, the accessory dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of this chapter, including but not limited to height, setback, lot coverage, floor area ratio, landscape, and historic preservation requirements, cumulatively with the primary residence; unless the unit is contained in a nonconforming structure and does not expand the nonconformity.

d. The accessory dwelling unit shall conform to all applicable state and local building code requirements, including verification from the applicable water district (submitted with the application for a building permit) that sufficient on-site water credits are available for the accessory dwelling unit. Fire sprinklers are not be required for the accessory dwelling unit unless they are required for the existing single-family home.

e. An accessory dwelling unit conforming to the requirements of this section shall not be considered to exceed the allowable density for the lot upon which the unit is located and shall be deemed to be a residential use consistent with the existing general plan and zoning designations for the lot.

f. All applications for accessory dwelling units that meet and comply with the requirements under this Chapter shall be approved as a ministerial permit without discretionary review or a hearing within one-hundred twenty (120) days after receipt of a substantially complete application.

g. Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Section 30000 et seq. of the Public Resources Code) or the City's certified Local Coastal Plan, and the City shall modify and condition accessory dwelling unit Coastal Development Permits accordingly to ensure consistency with such requirements, except that City shall consider a coastal development permit application for an ADU without a public hearing. All accessory dwelling unit Coastal Development Permits shall be appropriately noticed, including describing the procedures for appeal to the Coastal Commission as applicable.

3. Accessory Dwelling Units, Interior, shall additionally conform with the following:

a. The accessory dwelling unit must be constructed entirely within the existing and legally created space of a single-family home or accessory structure in the R-1 or R-4 Districts.

b. The accessory dwelling unit must have exterior access independent from the existing single-family home.

c. Side and rear setbacks must be sufficient for fire safety.

d. No additional parking for the accessory dwelling unit shall be required.

e. No new or separate utility connection directly between the accessory dwelling unit and the utility is required.

4. Accessory Dwelling Units, New Structure, shall additionally conform with the following:

a. All of the existing and proposed structures may not exceed the allowable floor area ratio for the lot.

b. An attached accessory dwelling unit constructed as an addition to an existing single-family home shall not exceed the height of the existing single-family home. Detached accessory dwelling unit shall have a maximum height of 12 feet and shall comply with all applicable setback standards.

c. An accessory dwelling unit attached to the existing single-family home shall have a minimum floor area of 150 square feet and the maximum floor area shall not exceed fifty percent of the living area of the existing single family home. A detached accessory dwelling unit shall have a minimum floor area of 150 square feet and maximum floor area of 600 square feet.

d. One additional parking space shall be provided per bedroom, which may be provided as tandem parking on an existing driveway, and shall meet applicable setback requirements for parking. Notwithstanding this provision, no additional parking is required for accessory dwelling units located within one-half mile of a public transit stop or car share vehicle pickup location, located entirely within an existing primary residence or an existing accessory structure, within an architecturally and historically significant historic district, or otherwise exempt under Government Code Section 65852.2(d) or successor provisions.

e. If the accessory dwelling unit replaces an existing garage, carport, or covered parking structure, replacement spaces must be provided to meet the requirements of Title 17.38 (Off-Street Parking Requirements) of the Municipal Code but may be provided as covered spaces, uncovered spaces, tandem spaces, or mechanical parking lifts. Accessory dwelling units constructed above an existing garage have a minimum side-yard setback of 3 feet and rear-yard setback of 5 feet.

f. A separate utility connection between the accessory dwelling unit and all utilities shall be required; and

g. The accessory dwelling shall be constructed with facade materials similar in texture and appearance to the primary dwelling, including but not limited to roofing, siding, and windows and doors.

~~Subordinate Units. The City has four classes of subordinate residential units as described in Chapter 17.68 CMC, Use Classifications. The following regulations apply to these specific classes.~~

~~1. General Standards for Class II, III and IV Subordinate Units.~~

~~a. Only one subordinate unit shall be allowed on any single-family building site.~~

~~b. The subordinate unit shall comply with the minimum health and safety standards in the Uniform Housing and Building Codes and the standards for efficiency units in the Uniform Building Code (UBC) as follows:~~

~~i. The unit shall have a minimum living area of 220 square feet.~~

- ii. ~~The unit shall provide a kitchen sink, cooking appliance and refrigerator facilities, each having a clear working space of not less than 30 inches in front.~~
- iii. ~~The unit shall have sufficient light and ventilation for living and kitchen use.~~
- iv. ~~The unit shall provide a separate bathroom, containing a water closet, lavatory and bathtub or shower.~~
- v. ~~The unit shall have electrical or gas service, water service and sewer service.~~
- vi. ~~The unit shall have a minimum ceiling height of seven feet, six inches.~~
- vii. ~~The unit shall have heating facilities capable of maintaining a room temperature of 70 degrees at a point three feet above the floor.~~
- c. ~~No nonconformities shall be created, increased, or enlarged.~~
- d. ~~No detached subordinate unit shall exceed the maximum allowable size of a guesthouse.~~
- e. ~~Class III and Class IV units located on sites of less than 6,000 square feet in area shall be attached to the primary dwelling.~~
- f. ~~All attached Class III units shall provide for future interaccessibility, and shall be designed to facilitate conversion of the unit into living space within the primary dwelling. A plan for conversion must be submitted with the application.~~
- g. ~~Class III units located on sites of 6,000 square feet or greater and all Class IV units may be attached or detached. Detached units shall be designed for conversion to a guesthouse. A plan for conversion must be submitted with the application.~~
- h. ~~All unregistered Class II, Class III, and Class IV subordinate units shall be recognized as illegal and subject to the enforcement procedures found in Division VI.~~

2. Regulations Applying to Specific Classes.

- a. ~~Class II. Class II units are subject to the general standards and convertibility provisions of subsection (F)(1) of this section and to the following:~~

~~i. The property owner shall either maintain the primary or the subordinate unit for his or her own use, or may rent or lease both dwellings. If both dwellings are rented or leased, the rental or lease terms shall be at least one year.~~

~~ii. Detached subordinate units on sites of less than 6,000 square feet shall not be enlarged or increased in size.~~

~~iii. Demolition of more than 50 percent of the value of the structures on a site containing a Class II unit shall require termination of the use and removal of the unit.~~

~~b. Class III. Class III units are subject to the General Standards and Convertibility provisions of subsection (F)(1) of this section, and the following:~~

~~i. Documentation or evidence shall be submitted to verify that a hardship exists and that granting approval of the use permit to authorize a subordinate unit is warranted. Use permits shall be issued for a specified time period based on the anticipated length of the hardship and shall be recorded with the Monterey County Recorder's Office.~~

~~ii. All use permits for Class III subordinate units shall expire upon termination of the specific hardship for which it was granted or upon reaching its time limit, whichever occurs first. Such removal or conversion shall occur within six months of permit expiration.~~

~~c. Class IV. Class IV units are subject to the general standards and convertibility provisions of subsection (F)(1) of this section, and the following provisions:~~

~~i. Class IV units must meet affordable housing standards for low-income or very low-income households as defined for the Carmel area by California Statutes. Verification as affordable housing shall be supplied in a manner approved by the City.~~

~~ii. Once established, Class IV units must remain as affordable units until converted to space within the single-family residential dwelling or converted to a guesthouse with a use permit per subsection (C) of this section.~~

GH. Single-Family Residential Dwellings. The following regulations apply to all single-family residential dwellings:

1. Not more than one dwelling unit is allowed per building site except as provided for ~~subordinate~~ accessory dwelling units.

2. All portions of a single-family dwelling must have full interaccessibility, with the exception of ~~registered permitted and/or legal accessory dwellings~~ subordinate units and guesthouses.

3. No single-family dwelling of substantially identical design as any existing building or any approved building shall be allowed on any site located on the same street between the two adjoining cross streets.

4. No proposed single-family dwelling shall be approved that is of substantially similar architecture, building massing, front setback or height as any existing building, or any approved building, located immediately adjacent to the proposed project and facing the street. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).



City of Carmel-by-the-Sea

COMMUNITY PLANNING AND BUILDING DEPARTMENT

August 4, 2026

Mayor Byrne and Council Members,

Enclosed is a report of building permit applications received by the Community Planning and Building Department between 2017 and 2026. This is not an all encompassing list of all ADUs received to-date, however, this list comprises of the units for which the most accurate information was readily accessability and able to be individually vetted in order to prepare the enclosed report.

A breakdown by year is provided below as well as which type of review ("Unit Type") the unit would fall into based on the 3-review types described in the proposed draft ordinance which has been under review of the Planning Commission.

Summary of Unit Types from Draft Ordinance:

- **Type 1** == Building Permit Only
- **Type 2** == Track 1 Major Design Study/Review (Planning Department Review) and Administrative Coastal Development Permit (Planning Department Review)
- **Type 3** == Track 2 Design Study/Review (Planning Commission Review) and Coastal Development Permit (Planning Commission Review)

Type 1 projects would generally involve no changes to the existing structure (i.e. conversion of existing floor area) and therefore these projects would only require a building permit and would not require a Coastal Development Permit.

Type 2 projects are most similar to the ADUs described in the city's existing ordinance, CMC section 17.08.050.G, in that the units must comply with all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of this chapter, including but not limited to height, setback, and floor area ratio. Type 2 ADUs would require an Administrative CDP (reviewed at the staff level) through a process similar to a Track 1 Major Design Review/Study. The Type 2 incentivizes ADU development by allowing for the creation of an ADU within the floor area limits of a property without the need for public hearing as may otherwise be required for a smaller scope of work for an addition to the single family residence.

Type 3 projects are ADUs that would have the potential to conflict with the Goals, Objectives, or Policies of the city's LCP, where potential impacts to Coastal Resources exist if not properly addressed through a discretionary review, or were a development permit is already part of a discretionary review for the same site. The permit review for the ADU would be completed through the city's standard Track 2 Design Study process. In compliance with the California Coastal Act, potential conflicts with the city's coastal resources would require review through a Coastal Development Permit where the Planning Commission would be the appropriate authority.

Unit Type	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	Total
Attached	2		1	2	4	4	5	6	5	3	32
Conversion	4	2	2	3	2	4	4	5	2	6	34
Detached	2			4	2	5	6	5	6	1	31
Total	8	2	3	9	8	13	15	16	13	10	97

"Potential Review Track"	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	Total
Denied	1										1
Type 1	3		2	1		2	2	5	1	4	20
Type 2	3	1		7	6	4	3		6	1	31
Type 3	1	1	1	1	2	7	10	11	6	5	45
Total	8	2	3	9	8	13	15	16	13	10	97

"Potential Review Track" vs Unit Types	Detached	Attached	Conversion	Total
Denied		1		1
Type 1			20	20
Type 2	16	8	7	31
Type 3	15	23	7	45
Total	31	32	34	97

Units excluded from the enclosed report are those which are incomplete, have been withdrawn, and/or those which did not adequately include enough information to be included in the enclosed report. The report does include building permit application which has been submitted, but have yet to be approved.

Best regards,

Evan Kort, Senior Planner

Accessory Dwelling Unit Building Permit Report																		
Permit Count	Permit No.	Associated w/ Track 2 DS	ADU or JADU	Attached, Detached, or Conversion	Date Submitted	Permit Year	ADU Floor Area	Site Area	FAR Allowed (Project)	Total FAR (Residence + ADU)	% of Site Area (ADU Only)	% of Total FAR (ADU Only)	Total Floor Area over Allowed Floor Area	Total Floor Area above Allowed Floor Area	% of "Bonus ADU Floor Area" over allowed Floor Area	"Proposed" ADU Type	Water Allocation	Notes
1	BP 17-047	See Notes	ADU	Conversion	2/21/2017	2017	441	7000	2730	3200	6%	14%	470	-	-	Type 1	-	Existing floor area was non-conforming; no change to FAR for project. DS approved as Guesthouse remodel. Kitchen added to ADU during BP review.
2	BP 17-090	No	ADU	Conversion	3/31/2017	2017	200	7714	2900	2895	3%	7%	-5	-	-	Type 1	-	Convert existing detached studio to ADU
3	BP 17-106	See Notes	ADU	Detached	4/19/2017	2017	345	11200	3492	3026	3%	11%	-466	-	-	Type 2	-	New Detached ADU. ADU shown as "separate permit" on DS plans. Unlear on timing
4	BP 17-136	No	ADU	Detached	5/10/2017	2017	252	4000	1800	1632	6%	15%	-168	-	-	Type 2	-	Garage conversion
5	BP 17-138	No	ADU	Conversion	5/10/2017	2017	322	4600	2014	1762	7%	18%	-252	-	-	Type 1	-	Lower floor conversion. Also see BP 250278
6	BP 17-210	No	ADU	Attached	7/3/2017	2017	284	2600	1170	1163	11%	24%	-7	-	-	Denied	-	Denied. Finding: adverse Impacts to Historic Resources
7	BP 17-211	No	ADU	Attached	7/3/2017	2017	415	5952	2446	1511	7%	27%	-935	-	-	Type 2	-	Attached Garage/Storage Room Conversion
8	BP 17-297	Yes	ADU	Conversion	9/12/2017	2017	200	6000	2460	2460	3%	8%	0	-	-	Type 3	-	ADU located within footprint of proposed addition to SFD.
9	BP 19-027	Yes	ADU	Conversion	11/6/2018	2018	208	6000	2460	2402	3%	9%	-58	-	-	Type 3	-	Garage conversion proposed with Track 2 DS for addition to Historic SFR.
10	BP 18-563	No	ADU	Conversion	11/28/2018	2018	282	4000	1800	1749	7%	16%	-51	-	-	Type 2	-	Garage conversion
11	BP 19-096	No	ADU	Conversion	2/21/2019	2019	310	7515	2853	2853	4%	11%	0	-	-	Type 1	-	Guest house conversion (over garage)
12	BP 19-646	No	ADU	Conversion	11/6/2019	2019	288	6666	2466	1844	4%	16%	-622	-	-	Type 1	-	Guest house conversion
13	BP 20-118	No	ADU	Detached	3/16/2020	2020	366	7539	2859	2859	5%	13%	0	-	-	Type 2	-	New construction
14	BP 20-181	No	ADU	Conversion	5/11/2020	2020	182	4000	1800	1713	5%	11%	-87	-	-	Type 2	-	Garage conversion
15	BP 20-200	No	ADU	Detached	5/28/2020	2020	260	4000	1800	1748	7%	15%	-52	-	-	Type 2	-	New 2nd floor ADU over existing detached garage.
16	BP 20-283	No	ADU	Conversion	7/9/2020	2020	620	4000	1800	1868	16%	33%	68	-	-	Type 1	-	(e) interior conversion to ADU; no exterior site alteration (existing site was non-conforming).
17	BP 20-308	Yes	ADU	Detached	7/28/2020	2020	296	9306	3200	3200	3%	9%	0	-	-	Type 2	-	New construction
18	BP 20-311	Yes	ADU	Attached	7/30/2020	2020	405	4000	1800	1591	10%	25%	-209	-	-	Type 2	-	Conversion + addition
19	BP 20-330	No	ADU	Attached	8/12/2020	2020	400	4000	1800	1800	10%	22%	0	-	-	Type 2	-	New attached unit
20	BP 20-503	No	ADU	Detached	12/4/2020	2020	430	6000	2460	1995	7%	22%	-465	-	-	Type 2	-	New detached unit
21	BP 20-515	Yes	ADU	Conversion	12/10/2020	2020	549	7570	2866	2814	7%	20%	-52	-	-	Type 3	-	Studio Conversion associated with Track 2 project
22	BP 21-022	No	ADU	Attached	1/22/2021	2021	502	38000	6000	2838	1%	18%	-3162	-	-	Type 2	-	Existing subordinate unit remodel and interior expansion within crawl space. (e) living space: 2790; (p) living space: 2838.
23	BP 21-023	No	ADU	Detached	1/22/2021	2021	710	4000	1800	1544	18%	46%	-256	-	-	Type 2	-	Demo garage and construct new ADU.
24	BP 21-112	No	ADU	Conversion	3/24/2021	2021	298	7185	2776	2528	4%	12%	-248	-	-	Type 2	-	Partial garage conversion
25	BP 21-147	No	ADU	Conversion	4/12/2021	2021	656	4000	1800	1800	16%	36%	0	-	-	Type 2	-	(e) guesthouse conversion to ADU; no exterior site alteration.
26	BP 21-239	No	ADU	Detached	6/3/2021	2021	398	6000	2460	1598	7%	25%	-862	-	-	Type 2	-	New detached unit
27	BP 21-339	Yes	ADU	Attached	8/2/2021	2021	695	6000	2460	2460	12%	28%	0	-	-	Type 2	-	45 square foot addition to converted structure
28	BP 21-422	No	ADU	Attached	10/11/2021	2021	554	12000	3600	3796	5%	15%	196	196	5%	Type 3	-	302 square foot ADU addition; 252 square foot conversion of existing studio to ADU.
29	BP 21-425	Yes	ADU	Attached	10/12/2021	2021	331	4000	1800	2027	8%	16%	227	227	13%	Type 3	-	50 square foot ADU addition; 281 square foot conversion of existing FAR to ADU.
30	BP 19-722	See Notes	ADU	Attached	11/16/2021	2019	580	4000	1997	2778	15%	21%	781	781	39%	Type 3	-	New attached unit (single family residence includes basement bonus). ADU approved as a revision to 2019 permit associated with Track 2 DS in 2022
31	BP 22-008	No	ADU	Detached	1/4/2022	2022	680	4000	1800	1750	17%	39%	-50	-	-	Type 2	-	New detached unit
32	BP 22-029	No	ADU	Attached	1/14/2022	2022	228	4000	1800	1789	6%	13%	-11	-	-	Type 2	-	Removed garage to accommodate new attached unit
33	BP 22-045	No	ADU	Detached	1/25/2022	2022	431	6600	2626	1602	7%	27%	-1024	-	-	Type 2	-	New detached unit
34	BP 22-085	No	ADU	Conversion	3/1/2022	2022	450	7000	2730	1741	6%	26%	-989	-	-	Type 1	-	(e) guesthouse conversion to ADU; no exterior site alteration.
35	BP 22-159	No	ADU	Conversion	4/28/2022	2022	500	12800	3708	3725	4%	13%	17	-	-	Type 3	-	Took converted floor from ADU then used addition for SFR. The SFR did not exceed the allowable floor area (3708 sf) for the site.
36	BP 22-227	No	ADU	Detached	6/9/2022	2022	897	11013	3450	3570	8%	25%	120	120	3%	Type 3	-	New detached unit
37	BP 22-329	Yes	ADU	Conversion	8/25/2022	2022	1322	6000	2460	3782	22%	35%	1322	-	-	Type 3	-	Took converted floor from ADU then used addition for SFR. The SFR did not exceed the allowable floor area (2,460 sf) for the site.
38	BP 22-398	Yes	ADU	Detached	10/3/2022	2022	672	7200	2779	3451	9%	19%	672	672	24%	Type 3	-	New detached unit approved prior to PC approval approval of associated DS
39	BP 22-408	No	ADU	Conversion	10/10/2022	2022	907	8000	2960	4225	11%	21%	1265	-	-	Type 1	-	(e) studio conversion to ADU; no exterior site alteration.
40	BP 22-412	Yes	ADU	Attached	10/13/2022	2022	799	4000	1800	2472	20%	32%	672	672	37%	Type 3	-	New attached unit
41	BP 22-466	Yes	ADU	Attached	12/6/2022	2022	745	4000	1800	2545	19%	29%	745	745	41%	Type 3	-	New attached unit approved prior to PC approval of associated DS
42	BP 22-483	No	ADU	Attached	12/20/2022	2022	569	4000	1800	2031	14%	28%	231	231	13%	Type 3	-	259 square foot ADU addition; 337 square foot conversion of existing FAR to ADU.
43	BP 22-493	No	ADU	Detached	12/22/2022	2022	466	7000	2730	2060	7%	23%	-670	-	-	Type 2	-	New detached unit
44	BP 23-059	Yes	ADU	Detached	2/1/2023	2023	750	4220	1881	2288	18%	33%	407	407	22%	Type 3	-	New detached unit
45	BP 23-099	No	ADU	Detached	3/1/2023	2023	800	20000	4600	4417	4%	18%	-183	-	-	Type 2	-	New detached unit
46	BP 23-119	No	JADU	Conversion	3/20/2023	2023	468	6000	2460	2426	8%	19%	-34	-	-	Type 1	-	Lower floor conversion
47	BP 23-120	Yes	ADU	Attached	3/20/2023	2023	606	4000	1928	2534	15%	24%	606	606	31%	Type 3	-	New attached unit (single family residence includes basement bonus)
48	BP 23-202	No	ADU	Conversion	4/21/2023	2023	242	4000	1800	1602	6%	15%	-198	-	-	Type 2	-	Garage conversion
49	BP 23-304	Yes	ADU	Attached	6/27/2023	2023	423	4000	1800	2223	11%	19%	423	423	24%	Type 3	-	New attached unit
50	BP 23-335	Yes	ADU	Detached	7/14/2023	2023	500	6200	2517	2798	8%	29%	281	281	11%	Type 3	-	Demolished garage and storage unit and rebuilt garage and ADU (not in-kind).
51	BP 23-359	Yes	ADU	Conversion	7/26/2023	2023	731	4000	1800	2511	18%	29%	713	713	20%	Type 3	-	Took converted floor from ADU then used addition for SFR. The SFR did not exceed the allowable floor area (1,800 sf) for the site.
52	BP 23-394	No	ADU	Detached	8/17/2023	2023	163	8000	2960	3561	2%	5%	601	601	20%	Type 3	-	Planning rough completed 08/2024
53	BP 23-409	No	ADU	Detached	8/31/2023	2023	953	4800	2083	2073	20%	46%	-10	-	-	Type 2	-	New detached ADU
54	BP 23-474	No	ADU	Conversion	10/6/2023	2023	666	8640	3086	3086	8%	22%	0	-	-	Type 1	-	Legalization of lower level ADU. Square footage for existing residence not able to be located. Assumed total square footage as no change was proposed.
55	BP 23-498	No	ADU	Attached	10/25/2023	2023	357	4000	1800	2311	9%	15%	511	511	28%	Type 3	-	New attached ADU
56	BP 23-527	Yes	ADU	Attached	11/3/2023	2023	264	4000	1800	1915	7%	14%	115	115	6%	Type 3	-	Attached ADU proposed with Track 2 DS for SFR addition.
57	BP 23-579	No	ADU	Attached	12/12/2023	2023	638	4120	1844	2911	15%	22%	1067	1067	58%	Type 3	-	New attached ADU
58	BP 23-594	Yes	ADU	Detached	12/21/2023	2023	391	11225	3495	4778	3%	8%	1283	1283	37%	Type 3	-	New detached unit
59	BP 24-014	No	ADU	Detached	1/11/2024	2024	389	7180	2774	2561	5%	15%	-213	-	-	Type 3	-	New ADU above reconstructed detached garage
60	BP 24-140	No	ADU	Attached	4/2/2024	2024	280	4031	1811	1981	7%	14%	170	170	9%	Type 3	-	New Attached ADU with 65 sf conversion
61	BP 24-184	No	ADU	Conversion	4/19/2024	2024	489	4600	2014	2153	11%	23%	139	-	-	Type 1	-	Conversion of lower level to ADU. Existing floor area was non-conforming; no change to FAR for project.
62	BP 24-289	See Notes	ADU	Attached	5/13/2024	2024	536	4000	1800	1944	13%	28%	144	144	8%	Type 3	-	Partial conversion + addition. ADU addition proposed following approval of Track 2 DS.
63	BP 24-251	Yes	ADU	Detached	5/24/2024	2024	422	4000	1800	2222	11%	19%	422	422	23%	Type 3	-	New detached ADU with new SFR.
64	BP 24-256	No	ADU	Detached	5/28/2024	2024	688	8000	2960	3225	9%	21%	265	265	9%	Type 3	-	New detached ADU.
65	BP 24-285	No	ADU	Attached	6/19/2024	2024	783	8045	2969	2696	10%	29%	-273	-	-	Type 3	-	New Attached
66	BP 24-303	No	ADU	Conversion	6/26/2024	2024	384	6000	2460	2075	6%	19%	-385	-	-	Type 1	-	Studio conversion
67	BP 24-330	Yes	ADU	Detached	7/17/2024	2024	791	8480	3310	3735	9%	21%	425	425	13%	Type 3	-	Detached ADU proposed with Track 2 DS for new SFR. Allowable FAR includes lot merger bonus
68	BP 24-357	No	ADU	Conversion	8/7/2024	2024	552	10873	3430	6372	5%	9%	2942	-	-	Type 1	-	Conversion of existing space within dwelling. Existing floor area was non-conforming; no change to FAR for project.
69	BP 24-383	See Notes	ADU	Conversion	8/26/2024	2024	423	4000	1800	1800	11%	24%	0	-	-	Type 1	-	Portion of proposed SFR approved as part of a Track 2 was converted to ADU during BP review.
70	BP 24-401	No	ADU	Detached	9/9/2024	2024	700	4000	1800	1965	18%	36%	165	165	9%	Type 3	-	Staff level DS required for associated site work. Floor area of SFR estimated from county assessor record (no record located)
71	BP 24-434	Yes	ADU	Attached	10/2/2024	2024	390	5107	2185	2575	8%	15%	390	390	18%	Type 3	-	Attached ADU proposed with Track 2 DS for SFR.
72	BP 24-486	No	JADU	Conversion	11/8/2024	2024	285	4000	1800	1821	7%	16%	21	-	-	Type 1	-	Garage Conversion to JADU. Existing floor area was non-conforming; no change to FAR for project.
73	BP 24-496	No	ADU	Attached	11/19/2024	2024	575	4000	1800	2032	14%	28%	232	232	13%	Type 3	-	Attached with small area of conversion
74	BP 24-504	Yes	ADU	Attached	11/21/2024	2024	442	4000	1800	2242	11%	20%	442	442	25%	Type 3	-	Attached ADU proposed with Track 2 DS for new SFR.
74	BP																	

CALIFORNIA COASTAL COMMISSION

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To: Planning Directors of Coastal Cities and Counties
From: John Ainsworth, Executive Director, California Coastal Commission
Date: January 21, 2022

RE: Updates Regarding the Implementation of New ADU Laws

I. Introduction

California's ongoing housing crisis continues to exacerbate housing inequity and affordability, especially in the coastal zone. To address this critical issue, the state Legislature has enacted a number of laws in the last several years that are designed to reduce barriers to providing housing and to encourage construction of additional housing units in appropriate locations. To this end, the 2019 legislative session resulted in a series of changes to state housing laws that facilitate the development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs), which can help provide additional housing units that can be more affordable than other forms of market rate housing. Importantly, the changes did not modify existing provisions of state housing law that explicitly recognize that local governments must still abide by the requirements of the Coastal Act, and by extension, Local Coastal Programs (LCPs). Thus, provisions on coastal resource protection must be incorporated into the planning and development process, and into updated LCP J/ADU requirements, when considering J/ADUs in the coastal zone.

The Coastal Commission strongly encourages local governments to update their LCPs with J/ADU provisions in a manner that harmonizes the State's housing laws with the Coastal Act. Doing so would protect the State's coastal resources while also reducing barriers to constructing J/ADUs and helping to promote more affordable coastal housing.

The Coastal Commission has previously circulated three memos to assist local governments with understanding how to carry out their Coastal Act obligations while also implementing state requirements regarding the regulation of J/ADUs. These memos have raised some questions for local governments, including the manner in which they are to be understood together. In order to address this issue, and to reflect lessons learned regarding J/ADU regulation in the coastal zone in the past few years, this updated memo supersedes and replaces these prior memos. This updated memo also elaborates on the changes to state housing laws that went into effect on January 1, 2020 and provides further information to help local governments harmonize these laws with the Coastal Act. This memo will briefly discuss the authority that the Coastal Act grants the Commission and local governments over housing in the coastal zone, new legislation regarding J/ADUs, how local governments can streamline J/ADU applications under the Coastal Act, and some key issues that should be considered when LCP amendments for J/ADU

provisions are undertaken. This memo is intended to provide general guidance for local governments with fully certified LCPs. The Coastal Commission is responsible for Coastal Act review of J/ADUs in most areas that are not subject to a fully certified LCP. Local governments that have questions about specific circumstances not addressed in this memo should contact the appropriate district office of the Commission.

II. Coastal Act Authority Regarding Housing in the Coastal Zone

The Coastal Act has a variety of provisions directly related to housing. Relevant here, the Coastal Act does not negate local government compliance with state and federal law “with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any other law hereafter enacted.” (Pub. Res. Code § 30007.) The Coastal Act also requires the Coastal Commission to encourage housing opportunities for low- and moderate-income households (Pub. Res. Code § 30604(f)) but states that “[n]o local coastal program shall be required to include housing policies and programs. (Pub. Res. Code § 30500.1.) Finally, new residential development must be “located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it” or in other areas where development will not have significant adverse effects on coastal resources. (Pub. Res. Code § 30250.)

While the Commission does not currently have the explicit authority to provide or protect affordable housing in the coastal zone, the Commission has continued to preserve existing density and affordable housing whenever possible, including by supporting and encouraging the creation of J/ADUs. The creation of new J/ADUs in existing residential areas is one of many strategies that aims to increase the housing stock, including creating additional housing units of a type and size that can be more affordable than other forms of housing in the coastal zone, in a way that may be able to avoid significant adverse impacts on coastal resources.

III. Overview of New Legislation

As of January 1, 2020, [AB 68](#), [AB 587](#), [AB 881](#), [AB 670](#), [AB 671](#), and [SB 13](#) collectively updated existing Government Code Sections 65852.2 and 65852.22 concerning local government review and approval of J/ADUs, and as of January 1, 2021, AB 3182 further updated the same laws, with the goal of increasing statewide availability of smaller, and potentially more affordable, housing units. Importantly, some of the changes affect local governments in the coastal zone and are summarized below.

- Local governments continue to have the discretion to adopt J/ADU provisions that are consistent with state law, and they may include specific requirements for protecting coastal resources and addressing issues such as design guidelines and protection of historic structures.
- Outside of an LCP context, existing or new J/ADU provisions that do not meet the requirements of the new legislation are null and void and will be substituted with the

provisions of Section 65852.2(a) until the local government comes into compliance with new provisions. (Gov. Code § 65852.2(a)(4).) However, existing J/ADU provisions contained in certified LCPs are not superseded by Government Code Section 65852.2 and continue to apply to Coastal Development Permit (CDP) applications for J/ADUs until the LCP is modified. Coastal jurisdictions without any J/ADU provisions or with existing J/ADU provisions that were adopted prior to January 1, 2020 are encouraged to update their LCPs to comply with the State's new laws. Such new or updated LCP provisions need to ensure that new J/ADUs will protect coastal resources in the manner required by the Coastal Act and LCP, including, for example, by ensuring that new J/ADUs are not constructed in locations where they would require the construction of shoreline protective devices, in environmentally sensitive habitat areas and wetlands, or in areas where the J/ADU's structural stability may be compromised by bluff erosion, flooding, or wave uprush over the structure's lifetime.

- A major change to Section 65852.2 is that the California Department of Housing and Community Development (HCD) now has an oversight role to ensure that local J/ADU provisions are consistent with state law. If a local government adopts an ordinance that HCD deems to be non-compliant with state law, HCD can notify the Office of the Attorney General. (Gov. Code § 65852.2(h)(3).) To ensure a smooth process, local governments should submit their draft J/ADU provisions to HCD and Coastal Commission staff to review for housing law and Coastal Act consistency before they are adopted locally and should continue to foster a three-way dialogue regarding any potential issues identified. Additionally, Coastal Commission and HCD staff meet regularly to discuss and resolve any issues that arise in the development of J/ADU provisions in the coastal zone. The Commission continues to prioritize J/ADU LCP amendments, and some may qualify for streamlined review as minor or de minimis amendments. (Pub. Res. Code § 30514(d); 14 Cal. Code Regs. § 13554.)
- In non-coastal zone areas, local governments are required to provide rapid, ministerial approval or disapproval of applications for permits to create J/ADUs, regardless of whether the local government has adopted updated J/ADU provisions. (Gov. Code § 65852.2(a)(3).) In the coastal zone, CDPs are still necessary in most cases to comply with LCP requirements (see below); however, a local public hearing is not required, and local governments are encouraged to streamline J/ADU processes as much as feasible.

Other recent legislative changes clarify that local J/ADU provisions may not require a minimum lot size; owner occupancy of an ADU (though if there is an ADU and a JADU, one of them must be owner-occupied); fire sprinklers if such sprinklers are not required in the primary dwelling; a maximum square footage of less than 850 square feet for an ADU (or 1,000 square feet if the ADU contains more than one bedroom); and in some cases, off-street parking. Section 65852.2(a) lists additional mandates for local governments that choose to adopt a J/ADU

ordinance, all of which set the “maximum standards that local agencies shall use to evaluate a proposed [ADU] on a lot that includes a proposed or existing single-family dwelling.” (Gov. Code § 65852.2(a)(6).) As indicated above, in specific cases coastal resource considerations may negate some such requirements, but only when tied to a coastal resource impact that would not be allowed under the Coastal Act and/or the LCP. In recent LCP amendments, these types of considerations have most often arisen in terms of the off-street parking provisions (see below).

IV. General Guidance for Reviewing J/ADU Applications

The following section lays out the general permitting pathway in which local governments can process J/ADU applications in a manner that is consistent with Coastal Act requirements and LCP provisions.

1) Check prior CDP history for the site.

Determine whether a CDP or other form of Coastal Act/LCP authorization was previously issued for development of the site and whether that CDP and/or authorization limits, or requires a CDP or CDP amendment for, changes to the approved development or for future development or uses of the site. The applicant should contact the appropriate Coastal Commission district office if a Commission-issued CDP and/or authorization affects the applicant’s ability to apply for a J/ADU.

2) Determine whether the proposed J/ADU constitutes “development.”

As defined by the Coastal Act, development refers to both “the placement or erection of any solid material or structure” on land as well as any “change[s] in the density or intensity of use of land[.]” (Pub. Res. Code § 30106.) Most J/ADUs constitute development if they include, for example, new construction of a detached ADU, new construction of an attached J/ADU, or conversion of an existing, uninhabitable, attached or detached space to a J/ADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the “placement or erection of solid material,” and the conversion of existing, uninhabitable space would generally constitute a “change in the density or intensity of use.” Therefore, these activities would generally constitute development in the coastal zone that requires a CDP or other authorization. (Pub. Res. Code § 30600.)

Unlike new construction, the conversion of an existing, legally established habitable space to a J/ADU within an existing residence, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure, may not constitute development within the definition in the Coastal Act. An example of a repurposed, habitable space that may not constitute new development (and thus does not require Coastal Act or LCP authorization) is the conversion of an existing bedroom within a primary structure.

Previously circulated Commission J/ADU memos (being superseded and replaced by this memo) indicated that construction or conversion of a J/ADU contained within or directly attached to an existing single-family residence (SFR) may qualify as development that was exempt from the requirement to obtain a CDP. Specifically, the Coastal Act and the Commission's implementing regulations identify certain improvements to existing SFRs that are allowed to be exempted from CDP requirements (Pub. Res. Code § 30610(a); 14 Cal. Code Regs § 13250.) Although the Commission has previously certified some LCP amendments that permitted certain exemptions for such ADU development, in a recent action, the Commission reevaluated its position and found that "the creation of a self-contained living unit, in the form of an ADU, is not an 'improvement' to an existing SFR. Rather, it is the creation of a new residence. This is true regardless of whether the new ADU is attached to the existing SFR or is in a detached structure on the same property." ¹ On this basis, and based on the finding that a variety of types of J/ADUs—including both attached and detached J/ADUs—could have coastal resource impacts that make exemptions inappropriate, it rejected the local government's proposed exemptions for certain J/ADUs. Local governments considering updating LCP J/ADU provisions should consider the Commission's recent stance regarding exemptions for ADUs and may work with Commission staff to determine the best way to proceed on this issue.

3) If the proposed J/ADU constitutes development, determine whether a CDP waiver or other type of expedited processing is appropriate.

If a local government's LCP includes a waiver provision, and the proposed J/ADU meets the criteria for a CDP waiver, the local government may issue a CDP waiver for the proposed J/ADU. The Commission has generally allowed a CDP waiver for proposed J/ADUs if the Executive Director determines that the proposed development is de minimis (i.e., it is development that has no potential for any individual or cumulative adverse effect on coastal resources and is consistent with all Chapter 3 policies of the Coastal Act). Such a finding can typically be made when the proposed J/ADU project has been sited, designed, and limited in such a way as to ensure any potential impacts to coastal resources are avoided (such as through habitat and/or hazards setbacks, provision of adequate off-street parking to ensure that public access to the coast is not impacted, etc.). (See Pub. Res. Code § 30624.7.) Projects that qualify for a CDP waiver typically allow for a reduced evaluation framework and streamlined approval.

Most, if not all, LCPs with CDP waiver provisions do not allow for waivers in areas where local CDP decisions are appealable to the Coastal Commission. There have been a variety of reasons for this in the past, including that the Commission's regulations require that local governments hold a public hearing for all applications for appealable development (14 Cal. Code Regs § 13566), and also that development in such areas tends to raise more coastal resource concerns and that waivers may therefore not be appropriate. However, under the state's J/ADU provisions, public hearings are not required for qualifying development.

¹ See Coastal Commission [staff report](#), pp. 16-17 (Commission acted on this item on December 17, 2021).

Because of this, the above-described public hearing issue would not be a concern, so it could be appropriate for LCPs to allow CDP waivers in both appealable and non-appealable areas at least related to this criterion. Local governments should consult with Commission staff should they consider proposing CDP waiver provisions in their LCP. Any LCP amendment applications that propose to allow waivers in appealable areas should ensure that there are appropriate procedures for notifying the public and the Commission regarding approvals of individual, appealable waivers (such as Final Local Action Notices) so that the proper appeal period can be set, and any appeals received are properly considered.

The Coastal Act also provides for other streamlined processing for certain types of development, including for minor development. (Pub. Res. Code § 30624.9.) In certain cases, categories of development can also be excluded from CDP requirements if certain criteria are met (see box). In any case, local governments without such CDP waiver and other processing and streamlining tools are encouraged to work with Commission staff to amend their LCP to include such measures.

Coastal Act section 30610(e) allows certain categories of development that are specified in Commission-approved Categorical Exclusion (Cat Ex) Orders to be excluded from CDP requirements, provided that the category of development has no potential for any significant adverse effect, either individually or cumulatively, on coastal resources. (See also 14 Cal. Code Regs §§ 13240 et seq.)

Cat Ex Orders apply to specific types of development within identified geographical locations. For example, the Commission may approve a Categorical Exclusion for J/ADUs that would normally require a CDP (i.e., it is defined as development) because that specific development type in that specific geographic area can be demonstrated to not result in individual and/or cumulative coastal resource impacts. Cat Ex Orders are prohibited from applying to: tide and submerged lands; beaches; lots immediately adjacent to the inland extent of any beach; lots immediately adjacent of the mean high tide line of the sea where there is no beach; and public trust lands.

Cat Ex Orders provide another potential means of streamlining J/ADU consideration, and interested local governments should consult with Commission staff if they intend to propose such an Order. Cat Ex Orders are processed separately from LCP amendments, require a 2/3 vote of the Commission to be approved, and are typically subject to conditions. Once approved, the local government is responsible for reviewing development that might be subject to the Cat Ex Order and is typically required to report any exclusions applied pursuant to the Order to the Commission for review by the Executive Director and for an appeal period before they can become effective. It is important to note that while Cat Ex Orders can be a powerful tool if approved, the Commission must be able to conclude that the specific category of development in a specific geographic area has no potential for any significant adverse coastal resources impacts in order to approve one. Thus, the local government pursuing a Cat Ex Order must provide supporting documentation and evidence that can conclusively show that to be the case.

4) If a full CDP is required, review CDP application for consistency with certified LCP requirements.

If a proposed J/ADU constitutes development and cannot be processed as a waiver or similar expedited Coastal Act approval authorized in the certified LCP, it requires a CDP. The CDP must be consistent with the requirements of the certified LCP and, where applicable, the public access and recreation policies of the Coastal Act. The local government must then provide the required public notice for any CDP applications for J/ADUs and process the application pursuant to LCP requirements, but should process it within the time limits contained in the ADU law, if feasible. However, local governments are not required to hold a public hearing on CDPs for ADUs. (Gov. Code § 65852.2(l).) Once the local government has issued a decision, it must send the required final local action notice to the appropriate district office of the Commission. If the CDP is appealable, a local government action to approve a CDP for the ADU may be appealed to the Coastal Commission. (Pub. Res. Code § 30603.)

V. Key Considerations

Per Government Code Section 65852.2, subd. (l), known as the Coastal Act Savings Clause, the State's new ADU requirements shall not be "construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976." There are a number of key issues that local governments should account for in order to ensure their LCP J/ADU provisions are consistent with the requirements in the Coastal Act. This section addresses some of the key issues that the Commission has dealt with recently, including public coastal access parking requirements and protection of sensitive habitats and visual qualities. Local governments are encouraged to contact their local Coastal Commission district office for further assistance.

Protection of public recreational access in relation to parking requirements

Government Code Section 65852.2 requirements regarding parking for J/ADUs are as follows:

- a. One parking space is required per unit or per bedroom, whichever is less. The parking space can be a tandem space in an existing driveway.
- b. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, no replacement parking space(s) are required.

However, Section 65852.2 further stipulates that the parking requirements listed above do not apply to ADUs constructed:

- a. Within ½ mile walking distance of public transportation stops/routes;
- b. Within a historic district;
- c. Within a primary residence or accessory structure;
- d. When on-street parking permits are required but not offered to the occupant of the ADU;

- e. And where a car-share vehicle is located within one block of the ADU.

Thus, the Government Code limits the circumstances when a local government can require a J/ADU project to address its parking needs onsite. This is a departure from most local government parking requirements which often explicitly specify the number of off-street parking spaces that must be provided onsite in any particular development, including residential development. The potential outcome is that private residential J/ADU parking needs can be shifted onto adjacent public streets. At the same time, the Coastal Act contains objectives and policies designed to protect and provide for maximum coastal access opportunities, which includes maintaining sufficient public coastal parking, including as implemented through LCP off-street parking provisions. The addition of J/ADUs may interfere with coastal public street parking availability if, for example, a garage is converted to a J/ADU and parking is not replaced onsite, in addition to the J/ADU parking demand itself. The Commission has often found that when private residential parking needs are not accommodated onsite, it can lead to increased use of on-street parking to address such needs, thereby reducing the availability of on-street parking to the general public. This may adversely affect public coastal access if it occurs in high visitor-serving areas and/or areas with significant public recreational access opportunities, and where on-street parking is heavily used. The result will be that the general public could be displaced from on-street parking by J/ADU parking needs, which may violate the Coastal Act's requirements to protect, provide, and maximize public coastal access and recreational opportunities. In many impacted coastal neighborhoods, development patterns over the years have not adequately accounted for off-street parking needs, and adding J/ADU parking to the mix will only exacerbate such public parking difficulties. Additionally, because general on-street parking is typically free or lower cost compared to other public parking facilities, J/ADU construction may also interfere with maintaining lower cost coastal access for all.

In order to avoid conflicts regarding parking requirements for J/ADUs as they may impact public access, local governments are encouraged to work with Commission staff to identify or map specific neighborhoods and locations where there is high visitor demand for public on-street parking needed for coastal access and to specify parking requirements for each such area that harmonizes Government Code requirements with the Coastal Act (and any applicable LCP policies). These maps can denote areas that supply important coastal public parking and access opportunities, and require that J/ADU development in these areas ensure that private residential parking needs are accommodated off-street. Importantly, such upfront LCP mapping and provisions allow the local government to address impacts to public access and parking supply without the need for a protracted, or even necessarily a discretionary, decision. The Commission has previously found that local governments may include specific off-street parking requirements for J/ADUs constructed in these locations and may also require maintenance of all off-street parking for the primary residence (see examples below). However, harmonizing the distinct priorities between the Coastal Act's protection of public coastal access and the J/ADU provisions on parking requirements will require a case-by-case consideration of the specific circumstances of each jurisdiction.

Protection of sensitive habitats and visual qualities; avoidance of hazards

While most J/ADU projects take place within established residential neighborhoods where potential coastal resource impacts are fairly limited, there can be cases where such projects may affect significant coastal resources, such as sensitive habitats and shorelines and beaches. As a general rule, LCPs include many provisions protecting such resources, and it is important that proposed J/ADU provisions are not structured to undo any such LCP protections that already apply. J/ADUs may need to be reviewed for specific siting and design standards, particularly in visually sensitive areas (such as the immediate shoreline, between the first public road and the sea, near LCP-designated scenic areas, etc.). Similarly, where sensitive habitat may be present, J/ADUs must be reviewed for impacts to such habitat, including with respect to fuel modification for defensible space. Additionally, local governments should include provisions for J/ADUs constructed in areas vulnerable to sea level rise and other coastal hazards which ensure not only that these structures will meet all LCP requirements for new development to be safe from such hazards, but that also addresses the need for future sea level rise adaptations (including future accommodation or removal, risk disclosure conditions on the J/ADU, and any other risk-related issues dealt with in the LCP).

VI. Examples of Recently Updated ADU Provisions in Certified LCPs

A number of local jurisdictions have recently updated their LCPs to include new J/ADU provisions. Coastal Commission staff reports are linked below, which summarize specific issues that arose between Coastal Act requirements and the new J/ADU provisions as well as the necessary changes that were made in order to harmonize each jurisdiction's LCP with the State's housing laws. The suggested modifications shown in the staff reports were all approved by the Coastal Commission.

[City of Santa Cruz \(approved May 2021\)](#). This LCP amendment included clarifying language to address which provisions of the new state housing laws applied to ADUs in the coastal zone of the City of Santa Cruz as well as ensuring that the coastal resource protection provisions of the City's current LCP are maintained. The amendment also addressed specific off-street parking requirements for ADUs sited near significant coastal visitor destinations. The City of Santa Cruz adopted the Commission's modifications in August 2021.

[City of Pacifica \(approved June 2021\)](#). This LCP amendment revised the City's Implementation Plan to incorporate J/ADU provisions that are in line with the updated state housing laws, including streamlined procedures for J/ADU review and permitting processing, providing J/ADU development standards, and crafting tailored modifications to address specific public access parking needs in key visitor destination areas. The City of Pacifica adopted the Commission's modifications in August 2021.

[County of San Mateo \(approved July 2021\)](#). This LCP amendment incorporated more specific ADU regulations relating to size limits, maximum number of J/ADUs permitted per lot, streamlined review and process of J/ADU permits, and parking availability in areas that are

significant coastal visitor destinations. The County of San Mateo adopted the Commission's modifications in September 2021.

City of Encinitas (approved August 2021). The Coastal Commission approved revisions to the City of Encinitas' Implementation Plan that updated existing definitions for ADUs and JADUs and clarified development standards for accessory units, including standards for size, height, and setbacks.

City of Santa Barbara (approved December 2021). The Coastal Commission approved Commission staff's revision of the City of Santa Barbara's LCP amendment submittal addressing updated ADU provisions to be consistent with state housing laws. The amendment revised J/ADU terms and definitions, building standards, parking requirements, and permitting review and processing procedures. The staff report included modifications that address the CDP exemption issue (discussed above).

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CITY OF CARMEL-BY-THE-SEA PLANNING COMMISSION Staff Report

**November 15, 2023
PUBLIC HEARINGS**

TO: Chair LePage and Planning Commissioners

SUBMITTED BY: Brandon Swanson

APPROVED BY: Brandon Swanson

SUBJECT: Workshop to gather early feedback on a draft ordinance amending Title 17 relating to Accessory Dwelling Units (ADUs)

Application: N/A

APN: N/A

Block: N/A

Lot: N/A

Location: Citywide

Applicant: N/A

Property Owner: N/A

Executive Summary:

Recommendation:

Conduct a public workshop to gather early feedback on a draft ordinance amending Title 17 relating to Accessory Dwelling Units (ADUs)

Background and Project Description:

The Planning Commission is being presented with an early draft of an ordinance (Attachment 1) that would amend the City's regulations pertaining to Accessory Dwelling Units or "ADUs", which include both full Accessory Dwelling Units, and Junior Accessory Dwelling Units or "JADUs". This workshop is meant to gather feedback from the Commission and the public alike on any and all aspects of ADU regulation. It is important to note that no decisions or formal recommendations are being made at this meeting.

Some of the specific early feedback that staff is requesting to be received from the Planning Commission includes:

- The overall format and usability of the ordinance. For example, the ordinance is generally organized into ADU regulations on “single-family properties” and “multi-family properties”. How does the Commission feel about this approach?
- High level ADU policies addressed in the ordinance. For example, many of the topics discussed at previous Planning Commission meetings have been included in the ordinance such as total floor area, design standards, inter-accessibility with the main house, and timing of approval relative to the single-family residence. Are there any other policy considerations to be included?
- Important Objective Design Standards. In this draft, the City proposes to create a specific set of objective (ministerial) design standards for ADUs. The final list of standards has not been completed, but staff is seeking direction from the Commission of what elements of design should be attempted to be addressed with an objective standard. For example, if it is important that ADUs have wood or aluminum clad wood windows, then this can be an objective (“yes” or “no” question) standard.
- Any and all other feedback. As a workshop on an early draft, the goal of this meeting is to gather as much feedback as possible. The Commission is encouraged to consider all aspects of the draft ordinance.

Following this workshop, staff will take the feedback received, and prepare a complete “first draft” of the ordinance package, which will include objective design standards. This draft will be brought back to the Planning Commission in the near future for a formal recommendation to the City Council.

Staff Analysis:

Other Project Components:

Not Applicable. As a workshop on a draft ordinance and, this action will not result in a direct or indirect physical change in the environment. Nothing is being approved by the Planning Commission. Therefore, the action does not qualify as a “project” as defined in section 15378 of the CEQA Guidelines, and is not subject to environmental review.

- 17.ADU.010 Purpose and intent**
- 17.ADU.020 Applicable Zoning Districts**
- 17.ADU.030 Development Standards for ADUs of Single Family Properties.**
- 17.ADU.040 Development Standards for ADUs of Multi-Family Properties.**
- 17.ADU.050 Junior Accessory Dwelling Units**
- 17.ADU.060 Design Review.**
- 17.ADU.070 Accessory Dwelling Units, General.**
- 17.ADU.080 Application and Review Procedure.**
- 17.ADU.090 Definitions.**

17.ADU.010 Purpose, Intent, and Findings.

- A. To enact regulations governing Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) construction in compliance with Section 65852.2 and Section 65852.22 of the Government Code, or any successor statute. The provisions of this article shall be liberally construed in order to accomplish development of ADUs and JADUs. In the event of a conflict between the provisions of this article and any other ordinance of the City of Carmel-by-the-Sea regulating ADUs or JADUs, the provisions of this article shall prevail.
- B. To establish a process for ministerial review and approval of ADUs and JADUs. No local ordinance, policy, or regulation other than this article and regulations referenced therein shall be the basis for the denial or delay of a building permit for an ADU or JADU.
- C. The provisions of this chapter shall only be applicable to the establishment of ADUs and/or JADU (that being the establishment of the dwelling unit). Other improvements made to the site, including but not limited to, improvements to the primary dwelling, site coverage improvements/modifications, decks, patios, landscaping, grading, parking, shall be undertaken in accordance with the applicable regulations and procedures in CMC 17.58 unless expressly authorized in this chapter.
- D. To provide for additional affordable housing opportunities without a commitment of public funds which are usually necessary to subsidize large-scale affordable housing development projects;
- E. To provide for convenient child care opportunities within residential neighborhoods. For working-age residents with children, ADUs allow family members or other child care providers to reside in close proximity to the household requiring child care. The nearby availability of child care for their children offers working-age residents convenience, and more importantly, may enable them to work and support their families without the burden of commercial child care costs;
- F. To provide for convenient elder care opportunities within residential neighborhoods. ADUs and JADUs enable multi-generational living on a common site. As Carmel's population ages, ADUs and JADUs allow family members or other caregivers to reside in close proximity to those receiving care while affording them the privacy of their own living space. For those receiving care, ADUs and JADUs will enable many to remain in their homes longer than would otherwise be possible without needing to relocate to an assisted living or other facility;
- G. The entirety of the City of Carmel-by-the-Sea is located within the Coastal Zone. The City's Local Coastal Program was certified by the California Coastal Commission in October of 2004. In accordance with Government Code Section 65852.2(l), the California Coastal Act of 1976 is neither superseded nor in any

way altered or lessened except that a public hearing for Coastal Development Permit applications for ADUs shall not be required.

1. As described in the Land Use Plan, “The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics” (LUP).
- H. Carmel Bay is considered an Area of Special Biological Significance (ASBS). The City has an important role to play in assuring that new development in the incorporated City limits does not contribute to water quality impacts from storm water or drainage discharges into the bay. (LUP)
1. In a city with few formal street improvements or drainage systems, the “urbanized” forest also serves to convey runoff from the watershed to the beach and Carmel Bay through a variety of natural drainages, swales, and creeks. The forest performs the important functions of absorbing water from the soil, reducing runoff, filtering pollutants, and minimizing erosion. As such, the “urbanized” forest reduces the amount of polluted runoff and in large part, helps the City comply with the National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water permit regulations (LUP).

17.ADU.020 Applicable Zoning Districts.

- A. An ADU that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The ADU shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
 1. *Community Plan and Specific Plan Area.* The provisions of subsection (A), above, shall apply to sites zoned as Community Plan or Specific Plan areas where the approved development plan includes residential uses as a permitted use, including mixed use. In cases where the details of the original development plan are not available, the Director may determine whether a site was intended for residential use as a permitted use by considering the use of any existing structures on the site in addition to the uses of structures and the development pattern of the area immediately surrounding the site.

17.ADU.030 Development Standards for ADUs on Single Family Properties.

The following standards apply to ADUs and JADUs developed on all properties within the single family (R-1) zoning district, or any district developed with an existing or proposed single family dwelling.

- A. Location – Single Family.
 1. Number of ADUs. A maximum of one (1) ADU, and one (1) JADU shall be allowed on a single-family property.
 - a. JADUs may be allowed consistent with section 17.ADU.050.

2. Location on site. An ADU may be attached, detached, or located within the primary dwelling on the same lot. An ADU may be converted from a garage or other existing accessory structure.

B. Floor Area – Single Family.

1. The floor area of an ADU and/or JADU is included in any other floor area limitation in this Title that is applicable to an attached or detached accessory building for the housing type and in the base zone in which the lot is located.
2. An ADU which is proposed to exceed floor area as described in subsection (B)(1) shall not be approved, unless the floor area of the existing and/or proposed improvements on site are reduced to comply with the limits for the underlying zoning except otherwise provided in this subsection, (B)(2).
 - a. Bonus Floor Area Transfer: The basement bonus described in CMC 17.10.030.D.4 may be transferred to the ADU up to an amount that the total above ground floor area of the site (primary dwelling and ADU) does not exceed that of the underlying zone district.
3. For the purposes of development of other structures on the property, the floor area of an existing ADU shall be counted in the calculation of the property's total lot coverage and floor area ratio.
4. The floor area of an ADU shall not exceed the floor area of an existing or proposed primary dwelling unless the ADU is being created through the conversion of an existing structure as described in section 17.ADU.030.C (conversion ADUs).

C. Unit Size – Single Family. The standards below provided the maximum and minimum unit sizes for ADUs. Establishment of an ADU within these standards shall require floor area available for establishment of the unit consistent with section 17.ADU.030.B, above.

1. New Construction Attached ADU. An ADU attached to the primary dwelling shall have a minimum floor area of 150 feet, and shall not exceed 50 percent of the existing floor area of the primary dwelling.
 - a. An attached garage shall be included in the square footage of the primary dwelling whether a portion of the garage is converted to an ADU or demolished as part of the establishment of the ADU, or not.
2. New Construction Detached ADU. A detached ADU shall have a minimum floor area of 150 square feet, and shall not exceed 850 square feet, except for an ADU that provides more than one bedroom, which shall not exceed 1,000 square feet.
3. Conversion ADUs. A conversion ADU shall have a minimum floor area of 150 square feet. The maximum floor area of an ADU that converts a portion of a primary dwelling shall be no more than 50% of the existing floor area of the dwelling being converted. An ADU that is created through the conversion of an existing detached accessory structure shall have no size restriction (i.e. the entire detached accessory structure may be converted regardless of the size).

- a. For the full conversion of accessory structures, an expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed. The 150 square foot addition shall comply with all setbacks and height limits of the underlying zone district.
- D. Height Limits – Single Family. The maximum height of an attached or detached new ADU shall not exceed the following limits:
 - 1. New Construction: Attached and detached ADUs shall comply with the height limits set forth in the zoning district in which the ADU is located. All new attached and detached ADUs shall comply with the plate and ridge heights established in table 17.10-C located in CMC 17.10.030.B.
 - a. Exceptions. The maximum ridge height for all structures shall be sixteen (16') feet with a twelve (12') plate height in the following instances:
 - i. The height of the primary dwelling unit is less than sixteen (16') feet;
 - ii. Any portion of a detached ADU is located between a primary dwelling unit and a site's front setback line; or
 - iii. Any portion of a detached ADU is located less than four (4') from the side lot line or less than fifteen (15') feet from the rear lot line.
 - 2. For a conversion ADU (without an expansion): the ADU shall be contained completely within the existing structure, and maintain the existing height of the converted structure.
 - a. An expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed for existing accessory structures. The 150 square foot addition shall match the plate and ridge heights of the existing accessory structure.
- E. Setbacks – Single Family.
 - 1. New Construction: Attached and detached ADUs shall comply with the setback requirements set forth in the zoning district in which the ADU is located including any applicable overlay district for with the subject property is located except as provided in this subsection.
 - a. An ADU shall comply with the front yard setback requirements of the applicable zoning district, except for when an existing structure is converted, maintains a non-conforming setback.
 - i. Detached ADUs shall not be subject to composite setback requirements prescribed in CMC 17.10.030.A.
 - 2. For a conversion ADU (without an expansion): No setback shall be required for conversion ADUs provided the structure maintains an adequate setback required for fire safety and access as determined by the Building Official and/or Fire Marshall.

- a. An expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed for existing accessory structures. The 150 square foot addition shall comply with all minimum setbacks limits described above.

F. Parking – Single Family.

1. No parking shall be required for an ADU except for as provided in the Coastal Access Parking Area, described in section 17.ADU.070.Q.
2. Except for as required in the Coastal Access Parking Area, when the required parking serving a primary dwelling is demolished for the purpose of establishing an ADU, replacement parking for the primary dwelling shall not be required.
 - a. This provision shall not apply for demolition and/or reconstruction of existing dwellings.
 - b. This provision shall not apply to JADUs, as described in section 17.ADU.050.F.
 - c. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be voluntarily provided as replacement parking for the primary dwelling and approved ministerially as part of the permit application for the ADU. The parking pad shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC 12.24.020.A-L are otherwise met.
 - i. Replacement garages or carports voluntarily provided shall be subject to Design Review pursuant to CMC 17.56 and shall be required to comply with applicable floor area and site coverage limitations for the site.
3. Development resulting in a loss of off-street parking shall render the site non-conforming, as described in CMC 17.10.030.F.2.d, if the site does not conform to parking requirements.

- G. Design Review – Single Family. All ADUs shall be subject to the provisions outlined in section 17.ADU.060, Design Standards.

17.ADU.040 Development Standards for ADUs on Multi-Family Properties.

The following standards apply to ADUs and JADUs developed on multi-family residential properties or mixed-used developments at any density:

A. Location – Multi-Family.

1. Number of ADUs. For all existing multi-family or mixed-use developments, both subsections (a) and (b) below shall apply.
 - a. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space:
 - i. The equivalent number of twenty-five (25%) percent of the existing multi-family dwelling units (no less than one (1) unit).

- b. ADUs detached from existing or proposed multi-family dwelling structures (The provisions of this subsection shall apply to a newly-constructed ADU that is detached from an existing multi-family dwelling structure and all accessory structures including, without limitation, garages and storage areas on the same site):

- i. Up to two (2) ADUs

2. Location on site.

- a. ADUs may be located within the portion of existing multi-family dwelling structures that are not used as livable space including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

- i. In mixed-use buildings, the non-livable space used to create an ADU or ADUs shall be limited to the residential areas of a mixed-use development, and not the areas used for commercial or other activities. The parking and storage areas for these non-residential uses shall also be excluded from potential ADU development.

- b. ADUs may be detached from an existing or proposed multi-family dwelling structure and all accessory structures including, without limitation, garages and storage areas on the same site

B. Floor Area – Multi-Family.

1. The floor area of an ADU is included in any other floor area limitation in this Title that is applicable to a detached accessory building for the housing type and in the base zone in which the lot is located.
2. An ADU which is proposed to exceed lot coverage and floor area as described below shall not be approved, unless the size is reduced so that the entire site in total complies with the limits for the underlying zoning district.
3. For purposes of development of other structures on the property, the floor area of an existing ADU shall be counted in the calculation of the property's total lot coverage and floor area ratio.
4. The floor area of an ADU shall not exceed the floor area of an existing or proposed primary dwelling unless the ADU is established through the conversion of an existing accessory structure or a portion of the existing primary residence as described in section 17.ADU.040.C.1.

C. Unit Size – Multi-Family. The standards below provide the maximum and minimum unit sizes for ADUs on multifamily properties. Establishment of an ADU within these standards shall require available floor area for establishment of the unit consistent with section 17.ADU.040.B, above.

1. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space:

- a. The minimum size of the ADU shall be 150 square feet. The maximum size of an ADU that is a conversion of a portion of the existing multi-family dwelling structures that are not used as livable space shall have no a maximum size requirement.
 2. Detached ADUs detached from existing multi-family dwelling structures:
 - a. New Construction Detached ADU. A detached ADU shall have a minimum floor area of 150 square feet, and shall not exceed 850 square feet, except for an ADU that provides more than one bedroom, which shall not exceed 1,000 square feet.
- D. Height Limits – Multi-Family. The maximum height of a detached new ADU on a multifamily property shall not exceed the following limits:
1. The height limit for detached ADUs is sixteen (16') feet or eighteen (18') feet if the multifamily dwelling contains more than one story.
 2. For ADUs contained within the portion of existing multi-family dwelling that is not used as livable space, the height will not exceed that of the existing space being converted.
- E. Setbacks – Multi-Family.
1. New Construction: Detached ADUs on multifamily properties shall comply with the setback requirements set forth in the zoning district in which the ADU is located including any applicable overlay district for with the subject property is located except as provided in this subsection.
 - a. An ADU shall comply with the front yard setback requirements of the applicable zoning district, except for when an existing structure is converted, maintains a non-conforming setback.
 - i. Detached ADUs shall not be subject to composite setback requirements prescribed in CMC 17.10.030.A, if applicable.
 2. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space: No setback shall be required for conversion ADUs provided the structure maintains an adequate setback required for fire safety and access as determined by the Building Official and/or Fire Marshall.
- F. Parking – Multi-Family.
1. No parking shall be required for an ADU except for as provided in the Coastal Access Parking Area, described in section 17.ADU.070.Q.
 2. Except for as required in the Coastal Access Parking Area, if the required parking serving a primary dwelling is demolished for the purpose of establishing an ADU, replacement parking for the primary dwelling(s) shall not be required.

- a. This provision shall not apply for demolition and/or reconstruction of existing dwellings.
- 3. Development resulting in a loss of off-street parking shall render the site non-conforming, as described in section 17.10.030.F.2.d, if the site does not conform to parking requirements.
- G. Design Review – Multi-Family. All ADUs shall be subject to the provisions outlined in section 17.ADU.060, Design Review.

17.ADU.050 Junior Accessory Dwelling Units.

Junior Accessory Dwelling Units. JADUs shall conform with the following:

- A. A JADU shall be a minimum of 150 square feet not exceed 500 square feet in size and shall contain at least an efficiency kitchen, which includes cooking appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the JADU.
- B. A JADU shall have a separate entrance from the single-family dwelling.
- C. The JADU may, but is not required to, include separate sanitation facilities. If separate sanitation facilities are not provided, the JADU shall share sanitation facilities with the single-family residence. If sanitation facilities are provided as part of the primary dwelling, the JADU shall maintain interior access to the primary dwelling.
 - 1. If a shared sanitation facility is provided with the primary dwelling, the shared sanitation facility shall:
 - a. Be in immediate close proximity to JADU;
 - b. Be accessible from the JADU without entering a separate room within the primary dwelling (accessible via a communal hallway or corridor) and without exiting to the exterior of the dwelling;
 - c. Be counted as part of the square footage of the unit (only the JADU and sanitation facilitation shall be considered in the floor area calculation; the communal corridor or hallway shall not be considered).
- D. Unless the property is owned by a governmental agency, land trust, or housing organization, one of the dwellings on the parcel (either the primary dwelling or JADU) must be the bona fide principal residence of at least one legal owner of the parcel, as evidenced at the time of approval of the JADU by appropriate documents of title and residency.
- E. Prior to issuance of a building permit for a JADU, the owner shall record a covenant in a form prescribed by the city, which shall run with the land and provide for the following. A copy of the recorded covenant shall be filed with the Community Planning and Building Department prior to issuance of a building permit:
 - 1. A prohibition on the sale of the JADU separate from the sale of the single-family residence;

2. A restriction on the size and attributes of the JADU consistent with this section;
 3. A prohibition against renting the property for fewer than 30 consecutive calendar days; and
 4. A requirement that either the primary residence or the JADU be the owner's bona fide principal residence, unless the owner is a governmental agency, land trust, or housing organization.
- F. Parking is not required for JADUs. However, if an existing attached garage is replaced by a JADU, each removed parking space must be replaced with an off-street parking space that complies with the requirements of the underlying zoning district.

17.ADU.060 Design Review.

The following shall apply to the design and exterior appearance of ADUs.

- A. ADUs shall comply with all applicable Administrative ADU Design Standards adopted by the Planning Commission. The Planning Commission may develop, and from time to time amend, the administrative standards provided the standards set forth for ADUs are objective and the criteria can be evaluated without discretion.
- B. In the absence of adopted administrative design standards for ADUs, the accessory dwelling shall be constructed with exterior materials that have the same texture and appearance to the primary dwelling, including but not limited to roofing, siding, and windows and doors.

17.ADU.070 Accessory Dwelling Units, General.

The following standards and requirements apply to all ADUs and JADUs:

- A. Permit Required. No person shall develop, construct, cause to be rented, or occupy an ADU or JADU on any lot within the city unless a building permit and associated approvals are obtained by the Community Planning and Building Department pursuant to the procedures and standards set forth in this chapter.
 1. Prior to building permit issuance, the building official shall find that all local building code requirements have been satisfied, except that the construction of an ADU shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was uninhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.
- B. Certificate of Occupancy. A certificate of occupancy for an ADU or JADU shall not be issued before the issuance of a certificate of occupancy for the primary dwelling, if constructed concurrently.

- C. Site Requirements. The building site is zoned to allow single-family or multifamily dwelling residential use and lot must contain a proposed or existing single-family dwelling, or existing multifamily dwelling. Notwithstanding any provision of this code to the contrary, an ADU shall be a permitted use in any zone where a single-family or multifamily dwelling is permitted.
1. Prohibited Locations.
 - a. The establishment of an ADU or JADU shall not be allowed through any permit or license on any building site where sufficient water to support the ADU or JADU is not available for the site.
 - b. The establishment of an ADU or JADU shall not be permitted on any portion of a building site not considered as part of the "buildable area" of a site, as defined in CMC 17.70.020.
- D. Trees. No tree, as described in CMC 17.48.050.A.1.a or CMC 17.48.050.A.1.b, shall be removed or pruned for the purpose of establishing an ADU except in accordance with CMC 17.48.050.
1. Significant trees shall only be removed in accordance with CMC 17.48.070.B.
 2. If trees are permitted by the City to be removed to facilitate the construction of an ADU that would otherwise preclude the development of an ADU replacement trees shall be provided on-site pursuant to CMC 17.48.080, or payment into the city's tree in-lieu fund, as adopted by Resolution by City Council, for each tree removed. Alternative locations may be approved by the city forester, as appropriate.
 3. All compaction of soils, construction of building walls, or placement of impermeable surfaces shall be setback a minimum of six feet from all trees.
- E. Fire Sprinklers. Notwithstanding any other provision of the Carmel Municipal Code, installation of fire sprinklers in an ADU of any type shall be required only if they are required for the primary dwelling unit. The construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling except as provided below.
1. Fire sprinklers shall be considered "required for the primary dwelling unit" in any of the following circumstances:
 - a. When fire sprinklers are currently installed in the primary dwelling unit;
 - b. When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an ADU; or
 - c. When fire sprinklers will be installed in an existing primary dwelling unit as the result of an addition to the primary dwelling unit, including an addition for the purpose of establishing an ADU, which addition triggered a requirement for retroactive installation

of fire sprinklers in the primary dwelling unit in accordance with SOG 23-01, Determining Fire Sprinkler Retrofit Requirements, and the Carmel Municipal Code.

2. For purposes of this subsection (a)(ii), the term "constructed concurrently" shall mean construction of a primary dwelling unit that is performed in reliance on a building permit issued within two (2) years of the date of issuance of a building permit for construction of an ADU.
 3. The floor area of an ADU contained within the existing space of a single-family dwelling or accessory structure or multi-family dwelling shall not be considered an "addition" under any provision of the Carmel Municipal Code related to retroactive installation of fire sprinklers in a structure.
- F. Drainage. Permit applications for the creation of a new attached or detached ADU shall comply with the requirements of CMC 15.18, Site Drainage.
 - G. Utilities. An ADU may have shared or separate utility services (i.e., an electrical and/or gas meter) from the primary dwelling.
 - H. Rental Term. Rental of any unit created pursuant to this chapter shall be for a term of 30 days or more.
 - I. No Separate Conveyance. The ADU may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence except as authorized in Gov. Code, §65852.26.
 - J. Story Poles. Story poles shall be installed consistent with the city's Story Pole Policy (Resolution 2017-122) for all ADUs that require a Coastal Development Permit where any addition of floor area or building height is proposed.
 - K. Transient Rental, Housing Incentive. An ADU created pursuant to this chapter shall not constitute construction of a new rental unit as described in CMC 17.14.040.W.2, Transient Rental, Housing Incentive.
 - L. Overlay Districts. Except as modified by this chapter, the ADU shall conform to all requirements of any applicable overlay district, described within CMC 17.20, except that no public hearing shall be required. The duties and powers designated to any board or commission shall be designated to the Director, as applicable, in the review of the ADU.
 - M. Historic Resources. An ADU or JADU proposed on a property with a historic resource shall be subject to the provisions outlined in CMC 17.32 except that no public hearing shall be required. A Determination of Consistency with the Secretary of the Interior's Standards shall be required for all major and minor alterations, as appropriate.
 - N. Mills Act. An ADU or JADU proposed on a property subject to a Mills Act Contract must comply with the provisions of the contract, including conformance to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, the United States Secretary of the

Interior's Standard for Rehabilitation, the California Historical Building Code, and the city's Historic Preservation Ordinance.

- O. Non-Conforming Site Coverage. Within the R-1 Zone District, sites shall comply with the provisions of CMC 17.10.030.C.2, as applicable.
- P. Access.
1. Exterior access. The ADU and/or JADU must have exterior access independent of the main unit.
 2. Inter-accessibility. Any accessory dwelling unit that is attached to, or located within, a single family dwelling shall be an independent dwelling unit with no inter-accessibility, interconnectivity, internal circulation, or other means of passage between the primary dwelling and ADU. This provision shall not apply to JADUs which may share circulation into the primary dwelling as described in section 17.ADU.050.C.
- Q. Coastal Access Parking Area. Project sites located within the Coastal access parking area, as illustrated in Figure 1, below, shall be required to provide one (1) on-site parking space per ADU in addition to any required parking to the primary dwelling.
1. Within the R-1 District, parking may be provided as an uncovered tandem space within the front or side yard setback located on the driveway in front of a garage or carport or elsewhere on the property where parking is allowed by the underlying zoning district.
 - a. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be provided ministerially for the ADU and shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC 12.24.020.A-L are otherwise met.
 2. Within all districts other than the R-1 District, replacement parking shall follow the standards prescribed in CMC 17.38, off-street parking requirements.
 - a. Unless specified in the Community Plan, Community Plan Districts shall comply with the provisions of CMC 17.38.

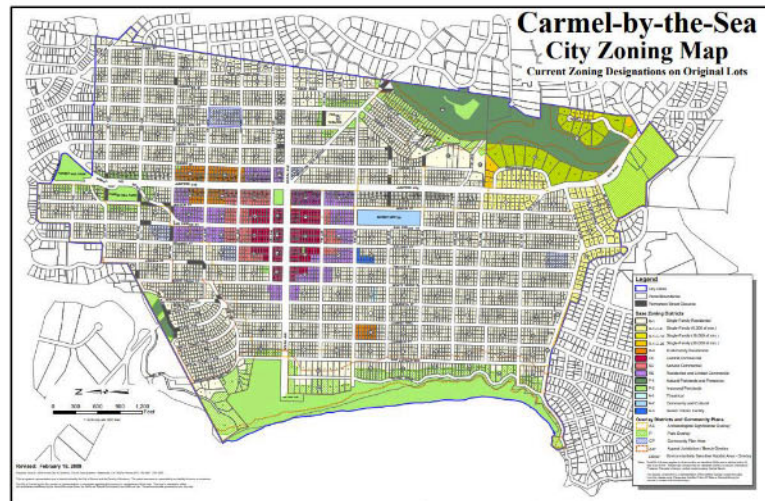


FIGURE 1. Coastal Access Parking Area [Map forthcoming].

- R. **Building Separation.** No minimum distance is required between structures. An ADU shall be considered attached to the primary dwelling unit or any other building when there is a common wall, common roof, or a horizontal connection at least thirty (30") inches above grade. Horizontal connections, including but not limiting to, retaining walls and/or decking between an ADU and the primary dwelling unit or any other building that are less than thirty (30") inches above grade are not considered a connection.
1. It is recommended a minimum of three (3') foot wide clear path of travel be maintained between buildings.
- S. **Passageway.** No passageway shall be required in conjunction with the construction of an ADU.
- T. **Standards for Accessory Structure Conversions.**
1. If a legally permitted accessory structure is demolished for the purpose of converting the structure to an ADU with the same dimensions, including but not limited to floor area, height, roof pitch, setbacks, the ADU can be rebuilt on the footprint of the existing accessory structure. A structure that is reconstructed beyond any of the existing dimensions of the existing structure shall not be considered a conversion and be subject to the applicable standards for a new detached ADU, except that a 150 square foot addition for ingress and egress may be allowed.
 - a. When a legally permitted existing accessory structure is demolished for the purpose of converting the structure to an ADU, a survey, prepared by a California Licensed Surveyor or Engineer, shall be submitted with the building with the building permit application certifying the following prior to demolition of the subject structure:
 - i. [CRITERIA TBD]
 2. **Carport Conversion.** When a carport is converted, an "imaginary wall plane" will be drawn around the exterior of the existing support posts. That wall plane becomes the exterior

walls/footprint for the purposes of the conversion. An ADU cannot be expanded beyond that wall plane.

3. Demolition Permits. A demolition permit for a detached garage that is to be replaced with an ADU shall be reviewed with the application for the ADU and issued at the same time as the ADU.

U. Subordinate Units

1. A nonconforming subordinate unit may be converted to a permitted ADU or JADU upon submittal of a building permit application demonstrating the unit meets the requirements outlined in this chapter for either an ADU or JADU, as appropriate, including evidence the unit was originally classified as a subordinate unit. All fees assessed by the city shall be waived for the conversion of a subordinate unit to an ADU or JADU provided there are no other building permits proposed as part of the application.
 - a. The property owner shall remove any covenants or restrictions associated with the subordinate unit as part of the building permit application. If covenants or restrictions are to be removed, said restriction shall be rescinded prior to a certificate of occupancy for the newly established ADU.

V. Non-Conformities.

1. The city shall not deny an application for a permit to create an ADU due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the ADU.
2. A non-conforming detached accessory structure may be re-built or re-constructed in-kind pursuant to 17.ADU.070.T.1. Demolished non-conformities may be re-built or re-established provided the reconstruction is for the benefit of the ADU only, and non-conformities are not expanded.

17.ADU.080 Application and Review Procedures.

A. Timing

1. The city shall ministerially approve or disapprove a complete building permit application for an ADU or JADU in compliance with the time periods established by State law. If a Coastal Development Permit is required, the Coastal Development Permit may be processed concurrently with the building permit application for the creation of the ADU/JADU, however, no building permit application shall be deemed complete until any required associated Coastal Development Permit has been approved.

B. Standard of Review

1. **Ministerial Review.** Except for when a Coastal Development Permit is required, applications for ADUs on a lot with an existing single-family residence or multifamily dwelling units that conform to the requirements of this section shall be considered as ministerial permits without discretionary review or a hearing, and the City shall approve or deny such applications within 60 calendar days after receiving the completed application. If the permit application to create an ADU, and/or JADU, is submitted with a permit application to create a new single-family dwelling on the lot, the city may delay acting on the permit application for the ADU until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the ADU shall still be considered as a ministerial permit without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.
2. **Coastal Development Permits.** For ADUs and JADUs that constitute development and therefore require a Coastal Development Permit: the City shall approve or deny coastal development permit applications within 60 calendar days after receiving the completed application to the extent feasible consistent with section 17.ADU.080.C, below. No building permit application shall be deemed complete until a Coastal Development Permit subject to the provisions of this section has been approved and any applicable appeal period has concluded.
 - a. **Readers Note:** Most ADUs and JADUs constitute development if they include, for example, new construction of a detached ADU, new construction of an attached ADU or JADU, or conversion of an existing, uninhabitable, attached or detached space to a ADU or JADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the “placement or erection of solid material,” and the conversion of existing, uninhabitable space would generally constitute a “change in the density or intensity of use.” Therefore, these activities would generally constitute development in the coastal zone that requires a CDP.
3. **Discretionary Review Request.** The applicant may submit an application for discretionary review of the ADU that deviates from the ministerial standards of this chapter but is within the discretionary purview of the city, or to provide for concurrent review of Coastal Development Permits for the ADU and the primary dwelling when a public hearing is required for the primary dwelling. Examples of this request may include consideration of design features that are otherwise prohibited ministerially but may otherwise be permitted through discretionary review.
 - a. When a ministerial review waiver is requested the procedures in CMC 17.56, Design Review, shall be followed.
 - i. The decision of the reviewing authority may be appealed consistent with CMC 17.54, Appeals.

- b. ADUs proposed as part of a discretionary review application shall be considered a permitted use consistent with section 17.ADU.020.
- c. The decision of the reviewing authority shall not preclude the ability of an applicant to receive a ministerial permit pursuant to Section 17.ADU.080.B.1 or 17.ADU.B.2 for an ADU that is brought into full compliance with the provisions of this chapter.
- d. The city shall not direct applications for the establishment of an ADU into a discretionary review track unless requested by the applicant.
- e. No separate fee for a Coastal Development Permit shall be assessed for a Coastal Development permit that is considered concurrently with a primary dwelling.

C. Coastal Development Permits.

1. Coastal Commission Appeals Jurisdiction. For Coastal Development Permits that are appealable to the California Coastal Commission, as described is the Carmel Municipal Code, the authority to review an application for a Coastal Development Permit is designated to the Director of Community Planning and Building or the Director's designee. Prior to approval of the Coastal Development Permit, the Director shall find that the Coastal Development Permit meets the findings identified in CMC 17.64.010.B, Coastal Development Permits. The Director shall not approve an application for a Coastal Development permit that is not found to be consistent with CMC 17.64.010.B.

At least 10 days before the City's decision on the application, the City shall provide notice, by first-class mail to all owners of real property, as identified on the last equalized property tax assessment roll within 300 feet. The notice shall include:

- a. The date the application will be acted upon by the City's review authority;
- b. A statement that the development is within the coastal zone;
- c. The date of filing of the application and the name of the applicant;
- d. The number assigned to the application;
- e. A description of the development and its location;
- f. The procedure for which an appeal may be filed with the California Coastal Commission.

The Director's decision shall be final and any appeals of the decisions of the Director or the Director's designee shall be appealed directly to the California Coastal Commission. Actions on applications to construct ADUs within these areas shall be consistent with the provisions of the applicable zone and the policies and development standards of the City of Carmel's certified Local Coastal Program and Chapter 3 of the California Coastal Act.

- a. Exception: If a waiver is requested by the applicant pursuant to section 17.ADU.080.C.1.a, the proposed Coastal Development Permit for the ADU shall also be reviewed by the decision making body designated in CMC 17.56. If an exception is

requested pursuant to section 17.ADU.080.C.1.a, any appeal further appeal made shall be in accordance with CMC 17.54.

2. **Non-Appealable Coastal Development Permits.** When a proposed ADU or JADU is not appealable to the California Coastal Commission and a Coastal Development Permit is required, the authority to review an application for a Coastal Development Permit is designated to the Director of Community Planning and Building or the Director's designee. Prior to approval of the Coastal Development Permit, the Director shall find that the Coastal Development Permit meets the findings identified in CMC 17.64.010.B, Coastal Development Permits. The Director shall not approve an application for a Coastal Development permit that is not found to be consistent with CMC 17.64.010.B.

At least 10 days before the City's decision on the application, the City shall provide notice, by first-class mail to all owners of real property, as identified on the last equalized property tax assessment roll within 300 feet. The notice shall include:

- a. The date the application will be acted upon by the City's review authority;
- b. A statement that the development is within the coastal zone;
- c. The date of filing of the application and the name of the applicant;
- d. The number assigned to the application;
- e. A description of the development and its location;
- f. A statement that the decision of the director is final and not appealable.

The decision of the Director, or the Director's designee shall not be appealable and constitute the final action of the City.

- a. **Exception:** If a waiver is requested by the applicant pursuant to section 17.ADU.080.C.1.a, the proposed Coastal Development Permit for the ADU shall also be reviewed by the decision making body designated in CMC 17.56. If an exception is requested pursuant to section 17.ADU.080.C.1.a, any appeal further appeal made shall be in accordance with CMC 17.54.

D. Denials.

1. If the city denies an application for an ADU or JADU pursuant to section 17.ADU.080.B.1, the permitting agency shall, within the time period described in 17.ADU.080.B.1, return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

17.ADU.090 Definitions

As used in this chapter, terms are defined as follows. Terms not defined below shall take the definition as otherwise define in Title 17 of the Carmel Municipal Code.

- A. **Accessory Dwelling Unit (ADU).** "Accessory Dwelling Unit" or "ADU" means an attached or a detached residential dwelling unit that provides complete independent living facilities and permanent provisions for living, sleeping, eating, cooking, sanitation, and connection to utilities for one or more persons and is

located on a lot with a proposed or existing primary residence or multi-family residences. An ADU also includes the following: An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, and a manufactured home, as defined in Section 18007 of the California Health and Safety Code. ADUs do not include mobile homes, tiny homes, or recreational vehicles licensed by the Department of Motor Vehicles (DMV).

1. **Attached.** An "Attached ADU" means an ADU that does not qualify as a conversion ADU and is constructed as a physical expansion (i.e. addition) to the primary dwelling. An attached ADU may be attached to the Single-Family Dwelling Unit by one or more common walls or other means but shares a physical connection. An attached ADU distinct from the definition of a junior ADU.
 2. **Detached.** A "Detached ADU" means an ADU that is within an independent structure entirely separate and shares no physical connection to the primary dwelling unit and/or other accessory structures.
 3. **Conversion.** A "Conversion ADU" means an ADU that is constructed completely within the existing or proposed space of a single family residence, an existing detached accessory structure, or an existing multi-family structure. Conversion ADUs are located completely within the existing or proposed floor area of the structure in which they are located, except for expansions for ingress and egress as allowed within this chapter.
- B. **Accessory structure.** A structure that is accessory and incidental to, and detached from, a dwelling located on the same site.
- C. **Complete independent living facilities.** Permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.
- D. **Coastal access parking area.** The Coastal Access Parking Area is defined as all properties located within the Beach and Riparian (BR) Overlay District located west of the centerline of Carmelo Street and west of the centerline North San Antonio Street, as well as all properties with street frontages located on San Antonio Avenue or North San Antonio Avenue.
1. If a property is not located immediately adjacent to a street frontage (flag lot, easements, etc), the frontage shall be determined by the driveway location of the subject property.
- E. **Efficiency Kitchen.** An efficiency kitchen shall mean a room or portion thereof containing permanent facilities designed and used for food preparation, cooking, eating and dish washing. A kitchen facility includes a sink that facilitates hot and cold water, a refrigerator, small electric kitchen appliances that do not require electrical service greater than 120 volts, an appropriately sized food preparation counter and storage cabinets. A dishwasher may be included as part of an efficiency kitchen, but is not required.
- F. **Efficiency Unit.** As defined in Section 17958.1 of the California Health and Safety Code.
- G. **Historic Resource.** For purposes of this section, a Historic Resource shall be a property listed, or eligible for listing, on the National Register of Historic Places or the California Register of Historical Resources, listed on the Carmel Inventory or Register of Historic Resources, or located in a designated historic district.

- H. **Junior Accessory Dwelling Unit.** (Also known as "Junior ADU" or "JADU") shall have the same meaning as defined in the California Government Code Section 65852.22, as amended from time to time.
- I. **Manufactured Home.** A unit as defined by Section 18007 of the California Health and Safety Code, as may be amended.
- J. **Ministerial approval.** Approval related to a building permit application that does not require discretionary action or a hearing.
- K. **Multi-Family Building.** A structure with two or more attached dwellings on a single lot, and any mixed use structure containing commercial floor area and one or more dwelling units. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings, nor are subordinate units, or existing ADUs.
- L. **Passageway.** A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- M. **Primary Dwelling.** A "Primary Dwelling" or "primary residence" means a single-family or multifamily residential dwelling unit that either exists on or is proposed for a lot zoned for any residential or mixed-use zone, either through a permitted use or a conditional use, and is constructed prior to or concurrently to the ADU or JADU. The primary dwelling shall include all attached non-habitable areas, such as attached garages, but does not include detached accessory structures on the same building site.
- N. **Proposed dwelling.** A dwelling that is the subject of a permit application and that meets the requirements for permitting and is subject to a Design Review Application, subject to CMC 17.58.
- O. **Sanitation Facilities.** Sanitation facilities means a room containing a toilet, sink, and bathtub or shower. Sanitation facilities may also be referred to as a bathroom or restroom.
- P. **Subordinate Units.** The city has previously classified two types of subordinate dwellings:
- i. Legal nonconforming units that were established prior to June 5, 1929. These units were legally established and required no permit. These units were originally classified as subordinate units.
 - ii. Legal nonconforming units that were established prior to April 5, 1988, and registered with the City by December 6, 1994. These units typically were built without City approval but were then legalized and brought to minimum health and safety standards through an amnesty period and registration. These units were originally classified as subordinate units.



CITY OF CARMEL-BY-THE-SEA PLANNING COMMISSION Staff Report

**November 13, 2024
ORDERS OF BUSINESS**

TO:	Chair LePage and Planning Commissioners
SUBMITTED BY:	Evan Kort, Senior Planner
APPROVED BY:	Brandon Swanson, Assistant City Administrator & Acting Community Planning and Building Director
SUBJECT:	An update and workshop to gather feedback on a draft ordinance amending Title 17 relating to Accessory Dwelling Units (ADUs).

Application:

APN:

Block:

Lot:

Location: Citywide

Applicant:

Property Owner:

Executive Summary:

The Planning Commission is being presented with a 2nd draft of an ordinance (Attachments 1 & 2) that would amend the City's regulations pertaining to Accessory Dwelling Units or "ADUs", which include both full Accessory Dwelling Units, and Junior Accessory Dwelling Units or "JADUs". This workshop is meant to gather feedback from the Commission and the public alike on any and all aspects of ADU regulation. It is important to note that no decisions or formal recommendations are being made at this meeting.

Recommendation:

Receive an update on development of the city's Accessory Dwelling Unit (ADU) Ordinance and conduct a public workshop to gather feedback on a revised draft (2nd draft) ordinance amending Title 17 relating to Accessory Dwelling Units (ADUs).

Background and Project Description:

On September 14, 2023, Planning Department staff met with California Coastal Commission staff to discuss the relationship between the city's Local Coastal Program (LCP) and the processing ADUs to ensure the ordinance takes the correct approach with regard to the LCP amendment. With this understanding, workshop of the first draft of the ADU ordinance of the scheduled with the Planning Commission.

A first draft of the ordinance (Attachment 5) was presented to the Planning Commission in workshop format on November 15, 2023. Following that meeting, Staff met with the Department of Housing and Community Development (HCD) on February 1, 2024 to review the draft ordinance and receive general feedback and direction from HCD. Shortly thereafter, at the request of city staff, HCD staff completed an informal review (refer to Attachment 4) of the 1st draft of the ordinance (i.e. the version presented to the Planning Commission at the November 15th workshop) so that staff could incorporate the comments from the Commission and HCD into a revised 2nd draft.

On October 22, 2024, city staff again met with Coastal Commission staff and shared a working version of the revised draft 2nd including the supplemental findings to support where the LCP does not align with the state statute but is required for consistency with the Coastal Act (refer to Attachment 3). While Commission staff has not yet provided any written comments on the proposed ordinance, Commission staff voiced their support of the city's position based on the discussion at the October 22nd meeting.

On November 5, 2024, city staff met with HCD staff to share updates made to the ordinance since their review of the first draft, provide updates regarding the meeting with the Coastal Commission, and receive general direction regarding the next steps. HCD staff was provided with a copy of a draft ordinance and has offered to provide comments on the revised ordinance. Staff continues to work with HCD regarding the unique situation of the city being entirely located within the coastal zone, however, HCD staff did acknowledge this unique circumstance.

Staff has taken the feedback from the workshop and comments from HCD and has prepared a 2nd draft of the proposed ordinance (refer to Attachments 1 & 2). As part of the response to the HCD's comments, staff also provided a separate response including substantial evidence and clarification of how deviations from the ADU statute are necessary to comply with the Coastal Act and the city's Local Coastal Program (LCP) in accordance with Government Code Section 66329 (refer to Attachment 3), a matter which was previously discussed at the November 2023 workshop and an October 2024 update to the City Council.

The most notable change to the second draft ordinance is how floor area is treated. In the first draft, ADUs would not be permitted to exceed the allowable floor area as required for strict compliance with the city's LCP (refer to Attachment 3; "Analysis/Response to Comments" section; Comment #2). The commission found this requirement to be too restrictive and directed staff to explore an alternative which would allow for development of ADUs beyond the base floor area limitation.

The revised draft allows for ADUs, up to 800 square feet above the allowable base floor area for the site, consistent with the state statute. To address the potential impacts on various coastal resources identified in the Local Coastal Program, units exceeding the allowable floor area could be allowed an additional 800 square feet (consistent with the state statute) through a review process similar to the city's standard design study process.

The above example is just one area where the ordinance has been revised, however, staff anticipates this area will warrant the most discussion. As this is a workshop format, all areas of the ordinance are open for discussion and staff encourages review and discussion of the entirety of the ordinance beyond the point noted above.

Staff Analysis:

Staff recommends the Commission and interested parties review Attachment 3 for the associated staff analysis. This attachment provides a detailed response to the city's response to HCD's informal review of

the 1st draft of the ordinance, as well as an analysis regarding in how various implementation measures and policies of the city's Local Coastal Program are necessary for consistency with the Coastal Act and Coastal Resource Protection, including community character (character resources, historic resources, scenic resources, historic resources, archaeology), public access and recreation (including parking), hazards, water resources, and water quality, even when related to the development of an ADU that may otherwise be precluded by the state statute.

This attachment is noted to be in draft form as it is still a living document that will evolve and be refined as the ordinance continues to be finalized.

A clean and redline version of the 2nd draft ordinance have also been included as Attachment 1 and 2.

Other Project Components:

Not Applicable. As a workshop on a draft ordinance and, this action will not result in a direct or indirect physical change in the environment. Nothing is being approved by the Planning Commission. Therefore, the action does not qualify as a "project" as defined in section 15378 of the CEQA Guidelines, and is not subject to environmental review.

Attachment 1a - ADU Ordinance: 2nd Draft

Attachment 1b - ADU Ordinance: 2nd Draft with Comments

Attachment 2 - ADU Ordinance: 2nd Draft (redline)

Attachment 3 - Staff Analysis

Attachment 4 - Informal Review by HCD (comments from 1st draft ordinance)

Attachment 5 - ADU Ordinance: 1st Draft

17.ADU.010 Definitions. 17.ADU.020 Purpose and intent
 17.ADU.030 Applicable Zoning Districts
 17.ADU.040 Development Standards for ADUs of Single Family Properties.
 17.ADU.050 Development Standards for ADUs of Multi-Family Properties.
 17.ADU.060 Junior Accessory Dwelling Units
 17.ADU.070 Design Review.
 17.ADU.080 Accessory Dwelling Units, General.
 17.ADU.100 Coastal Resource Protection
 17.ADU.100 Application and Review Procedure.

17.ADU.010 Definitions

As used in this chapter, terms are defined as follows. Terms not defined below shall take the definition as otherwise define in Title 17 of the Carmel Municipal Code.

- A. **Accessory Dwelling Unit (ADU).** “Accessory Dwelling Unit” or “ADU” means an attached or a detached residential dwelling unit that provides complete independent living facilities and permanent provisions for living, sleeping, eating, cooking, sanitation, and connection to utilities for one or more persons and is located on a lot with a proposed or existing primary residence or multi-family residences. An ADU also includes the following: An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, and a manufactured home, as defined in Section 18007 of the California Health and Safety Code. ADUs do not include mobile homes, tiny homes, or recreational vehicles licensed by the Department of Motor Vehicles (DMV).
1. **Attached.** An "Attached ADU" means an ADU that does not qualify as a conversion ADU and is constructed as a physical expansion (i.e. addition) to the primary dwelling. An attached ADU may be attached to the Single-Family Dwelling Unit by one or more common walls or other means but shares a physical connection. An attached ADU distinct from the definition of a junior ADU.
 2. **Detached.** A "Detached ADU" means an ADU that is within an independent structure entirely separate and shares no physical connection to the primary dwelling unit and/or other accessory structures.
 3. **Conversion.** A “Conversion ADU” means an ADU that is constructed completely within the existing or proposed space of a single family residence, an existing detached accessory structure, or an existing multi-family structure. Conversion ADUs are located completely within the existing or proposed floor area of the structure in which they are located, except for expansions for ingress and egress as allowed within this chapter.
- B. **Accessory structure.** A structure that is accessory and incidental to, and detached from, a dwelling located on the same site.

- C. **Administrative Review (Administrative; Administratively).** A review which may include discretion or use of personal judgement that does not require consideration or approval at a public hearing.
- D. **Complete independent living facilities.** Permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.
- E. **Coastal access parking area.** The Coastal Access Parking Area is defined as all properties located within the Beach and Riparian (BR) Overlay District located west of the centerline of Carmelo Street and west of the centerline North San Antonio Street, as well as all properties with street frontages located on San Antonio Avenue or North San Antonio Avenue.
 - 1. If a property is not located immediately adjacent to a street frontage (flag lot, easements, etc), the frontage shall be determined by the driveway location of the subject property.
- F. **Coastal Development Permit.** A Coastal Development Permit (CDP) is the regulatory mechanism by which proposed developments in the coastal zone are brought into compliance with the policies of Chapter 3 of the Coastal Act.
 - 1. Note: The policies applicable to the City of Camel of Chapter 3 of the Coastal Act have been incorporated into the city's certified Local Coastal Program.
- G. **Historic Resource.** For purposes of this section, a Historic Resource shall be a property listed, or eligible for listing, on the National Register of Historic Places or the California Register of Historical Resources, listed on the Carmel Inventory or Register of Historic Resources, or located in a designated historic district.
- H. **Junior Accessory Dwelling Unit** (Also known as "Junior ADU" or "JADU"). A unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- I. **Manufactured Home.** A unit as defined by Section 18007 of the California Health and Safety Code, as may be amended.
- J. **Ministerial Review (Ministerially).** A review that does not require discretionary action or review, personal judgement, or a public hearing.
- K. **Passageway.** A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- L. **Primary Dwelling.** A "Primary Dwelling" or "primary residence" means a single-family or multifamily residential dwelling unit that either exists on or is proposed for a lot zoned for any residential or mixed-use zone, either through a permitted use or a conditional use, and is constructed prior to or concurrently to the ADU or JADU. The primary dwelling shall include all attached non-habitable areas, such as attached garages, but does not include detached accessory structures on the same building site.

1. **Multi-Family Dwelling.** A structure with two or more attached dwellings on a single lot, and any mixed use structure containing commercial floor area and one or more dwelling units. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings, nor are subordinate units, or existing ADUs.
 2. Condominium units shall be defined as single family or multi-family based on the parcel map that defines the space of the primary dwelling.
- M. **Proposed dwelling.** A dwelling that is the subject of a permit application and that meets the requirements for permitting and is subject to a Design Review Application, subject to CMC 17.58.
- N. **Sanitation Facilities.** Sanitation facilities means a room containing a toilet, sink, and bathtub or shower. Sanitation facilities may also be referred to as a bathroom or restroom.
- O. **Subordinate Units.** The city has previously classified two types of subordinate dwellings:
- i. Legal nonconforming units that were established prior to June 5, 1929. These units were legally established and required no permit. These units were originally classified as subordinate units.
 - ii. Legal nonconforming units that were established prior to April 5, 1988, and registered with the City by December 6, 1994. These units typically were built without City approval but were then legalized and brought to minimum health and safety standards through an amnesty period and registration. These units were originally classified as subordinate units.

17.ADU.020 Purpose, Intent, and Findings.

- A. To enact regulations governing Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) construction in compliance with Section 65852.2 and Section 65852.22 of the Government Code, or any successor statute. The provisions of this article shall be liberally construed in order to accomplish development of ADUs and JADUs. In the event of a conflict between the provisions of this article and any other ordinance of the City of Carmel-by-the-Sea regulating ADUs or JADUs, the provisions of this article shall prevail.
- B. To establish a process for ministerial review and approval of ADUs and JADUs. No local ordinance, policy, or regulation other than this article and regulations referenced therein shall be the basis for the denial or delay of a building permit for an ADU or JADU.
- C. The provisions of this chapter shall only be applicable to the establishment of ADUs and/or JADU (that being the establishment of the dwelling unit). Other improvements made to the site, including but not limited to, improvements to the primary dwelling, site coverage improvements/modifications, decks, patios, landscaping, grading, parking, shall be undertaken in accordance with the applicable regulations and procedures in CMC 17.58 unless expressly authorized in this chapter.

- D. To provide for additional affordable housing opportunities without a commitment of public funds which are usually necessary to subsidize large-scale affordable housing development projects;
- E. To provide for convenient child care opportunities within residential neighborhoods. For working-age residents with children, ADUs allow family members or other child care providers to reside in close proximity to the household requiring child care. The nearby availability of child care for their children offers working-age residents convenience, and more importantly, may enable them to work and support their families without the burden of commercial child care costs;
- F. To provide for convenient elder care opportunities within residential neighborhoods. ADUs and JADUs enable multi-generational living on a common site. As Carmel's population ages, ADUs and JADUs allow family members or other caregivers to reside in close proximity to those receiving care while affording them the privacy of their own living space. For those receiving care, ADUs and JADUs will enable many to remain in their homes longer than would otherwise be possible without needing to relocate to an assisted living or other facility;

17.ADU.030 Applicable Zoning Districts.

- A. An ADU that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The ADU shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
 - 1. *Community Plan and Specific Plan Area.* The provisions of subsection (A), above, shall apply to sites zoned as Community Plan or Specific Plan areas where the approved development plan includes residential uses as a permitted use, including mixed use. In cases where the details of the original development plan are not available, the Director may determine whether a site was intended for residential use as a permitted use by considering the use of any existing structures on the site in addition to the uses of structures and the development pattern of the area immediately surrounding the site.

17.ADU.040 Development Standards for ADUs on Single Family Properties.

The following standards apply to ADUs and JADUs on all properties within all zoning district that allows single-family dwellings developed with an existing or proposed single family dwelling.

- A. Location – Single Family.
 - 1. Number of ADUs. A maximum of one (1) ADU, and one (1) JADU shall be allowed on a single-family property.

- a. One (1) additional ADU shall be permitted on a building site when the existing or proposed units are limited to: one (1) conversion ADU, one (1) detached ADU, and one (1) JADU.
 - b. JADUs are allowed consistent with section 17.ADU.060.
2. Location on site. An ADU may be attached to, detached from, or located within the existing or proposed primary dwelling on the same building site. An ADU may also be converted from a garage or other existing accessory structure on the same building site as the existing primary dwelling.

B. Floor Area – Single Family.

The floor area of an ADU and/or JADU is included in any other floor area limitation in this Title that is applicable to an attached or detached accessory building for the housing type and in the base zone in which the lot is located.

- a. Notwithstanding CMC 17.ADU.030.B.1, an 800 square foot floor area allowance may be allowed exclusively for the creation of an attached or detached Type 3 ADU, as described in section 17.ADU.xxx.
2. For the purposes of development of other structures on the property, the floor area of an existing ADU shall be counted in the calculation of the property's total lot coverage and floor area ratio.
3. The floor area of an ADU shall not exceed the floor area of an existing or proposed primary dwelling..

Exceptions for attached and detached units: If the existing or proposed primary dwelling is 800 square feet or less, the ADU shall be allowed a maximum of 800 square feet regardless of such condition, as provided in section 17.ADU.030.C.1.a.

C. Unit Size – Single Family. The standards below provided the maximum and minimum unit sizes for ADUs. Establishment of an ADU within these standards shall require floor area available for establishment of the unit consistent with section 17.ADU.040.B, above.

- 1. New Construction Attached ADU. An ADU attached to the primary dwelling shall have a minimum floor area of 150 feet, and shall not exceed 50 percent of the existing floor area of the primary dwelling.
 - a. If the square footage of the primary dwelling does not allow for an attached ADU of at 800 square feet, a maximum allowance of 800 square feet shall be allowed for the unit size of the attached ADU.
 - b. An attached garage shall be included in the square footage of the primary dwelling whether a portion of the garage is converted to an ADU or demolished as part of the establishment of the ADU, or not.

2. New Construction Detached ADU. A detached ADU shall have a minimum floor area of 150 square feet, and shall not exceed 850 square feet, except for an ADU that provides more than one bedroom, which shall not exceed 1,000 square feet.
 3. Conversion ADUs. A conversion ADU shall have a minimum floor area of 150 square feet. The maximum floor area of an ADU that converts a portion of a primary dwelling shall be no more than 50% of the existing floor area of the dwelling being converted. An ADU that is created through the conversion of an existing detached accessory structure shall have no size restriction (i.e. the entire detached accessory structure may be converted regardless of the size).
 - a. For the full conversion of accessory structures, an expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed. The 150 square foot addition shall comply with all setbacks and height limits of the underlying zone district.
- D. Height Limits – Single Family. The maximum height of an attached or detached new ADU shall not exceed the following limits:
1. New Construction: Attached and detached ADUs shall comply with the height limits set forth in the zoning district in which the ADU is located. All new attached and detached ADUs shall comply with the plate and ridge heights established in table 17.10-C located in CMC 17.10.030.B.
 - a. Exceptions. The maximum ridge height for all structures shall be sixteen (16') feet with a twelve (12') plate height in the following instances:
 - i. The height of the primary dwelling unit is less than sixteen (16') feet;
 - ii. Any portion of a detached ADU is located between a primary dwelling unit and a site's front setback line; or
 - iii. Any portion of a detached ADU is located less than four (4') from the side lot line or less than fifteen (15') feet from the rear lot line.
 2. For a conversion ADU (without an expansion): the ADU shall be contained completely within the existing structure, and maintain the existing height of the converted structure.
 - a. An expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed for existing accessory structures. The 150 square foot addition shall match the plate and ridge heights of the existing accessory structure.
- E. Setbacks – Single Family.
1. New Construction: Attached and detached ADUs shall comply with the setback requirements set forth in the zoning district in which the ADU is located including any applicable overlay district for with the subject property is located except as provided in this subsection.

- a. Detached ADUs shall not be subject to composite setback requirements prescribed in CMC 17.10.040.A.
 - 2. For a conversion ADU (without an expansion): No setback shall be required for conversion ADUs provided the structure maintains an adequate setback required for fire safety and access as determined by the Building Official and/or Fire Marshall.
 - a. An expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed for existing accessory structures. The 150 square foot addition shall comply with all minimum setbacks limits described above.
- F. Parking – Single Family.
- 1. No parking shall be required for an ADU except for as provided in the Coastal Access Parking Area, described in section 17.ADU.080.Q, where on site parking shall be provided for all ADUs.
 - 2. Except for as required in the Coastal Access Parking Area, when the required parking serving a primary dwelling is demolished for the purpose of establishing an ADU, replacement parking for the primary dwelling shall not be required.
 - a. This provision shall not apply for demolition and/or reconstruction of existing dwellings.
 - b. This provision shall not apply to JADUs, as described in section 17.ADU.060.F.
 - c. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be voluntarily provided as replacement parking for the primary dwelling and approved administratively as part of the permit application for the ADU. The parking pad shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC 12.24.020.A-L are otherwise met.
 - i. Replacement garages or carports voluntarily provided shall be subject to Design Review pursuant to CMC 17.56 and shall be required to comply with applicable floor area and site coverage limitations for the site.
 - 3. Development resulting in a loss of off-street parking shall render the site non-conforming, as described in CMC 17.10.040.F.2.d, if the site does not conform to parking requirements.
- G. Design Review – Single Family. All ADUs shall be subject to the provisions outlined in section 17.ADU.070, Design Standards.

17.ADU.050 Development Standards for ADUs on Multi-Family Properties.

The following standards apply to ADUs and JADUs developed on multi-family residential properties or mixed-used developments at any density:

A. Location – Multi-Family.

1. Number of ADUs. For all existing multi-family or mixed-use developments, subsections (a) through (c) below shall apply.
 - a. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space:
 - i. The equivalent number of twenty-five (25%) percent of the existing multi-family dwelling units (no less than one (1) unit).
 - b. ADUs detached from existing or proposed multi-family dwelling structures ():
 - i. Up to two (2) ADUs
 - ii. For the purpose of this subsection, a detached ADU shall mean an ADU that is detached from the multi-family dwelling, and shares no common connection with a commercial use or occupancy, if cited on a mixed-use property or development.
 - c. JADUs shall not be permitted in multi-family or mixed-use use developments.
2. Location on site.
 - a. ADUs may be located within the portion of existing multi-family dwelling structures that are not used as livable space including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
 - i. In mixed-use buildings, the non-livable space used to create an ADU or ADUs shall be limited to the residential areas of a mixed-use development, and not the areas used for commercial or other activities. The parking and storage areas for these non-residential uses shall also be excluded from potential ADU development.
 - b. ADUs may be detached from an existing or proposed multi-family dwelling structure and all accessory structures including, without limitation, garages and storage areas on the same site

B. Floor Area – Multi-Family.

1. The floor area of an ADU is included in any other floor area limitation in this Title that is applicable to a detached accessory building for the housing type and in the base zone in which the lot is located.

- a. Notwithstanding CMC 17.ADU.030.B.1, an 800 square foot floor area allowance may be allowed exclusively for the creation of a detached Type 3 ADU, as described in section 17.ADU.xxx.
2. For purposes of development of other structures on the property, the floor area of an existing ADU shall be counted in the calculation of the property's total lot coverage and floor area ratio.
3. The floor area of an ADU shall not exceed the floor area of an existing or proposed primary dwelling.
 - a. Exceptions for attached and detached units: If the existing or proposed primary dwelling is 800 square feet or less, the ADU shall be allowed a maximum of 800 square feet regardless of such condition, as provided in section 17.ADU.030.C.1.a.
- C. Unit Size – Multi-Family. The standards below provide the maximum and minimum unit sizes for ADUs on multifamily properties. Establishment of an ADU within these standards shall require available floor area for establishment of the unit consistent with section 17.ADU.040.B, above.
 1. ADUs contained within the enclosed space of an existing multi-family dwelling that is not used as livable space:
 - a. The minimum size of the ADU shall be 150 square feet. The maximum size of an ADU that is a conversion of a portion of the existing multi-family dwelling structures that are not used as livable space shall have no a maximum size requirement.
 2. Detached ADUs detached from existing multi-family dwelling structures:
 - a. New Construction Detached ADU. A detached ADU shall have a minimum floor area of 150 square feet, and shall not exceed 850 square feet, except for an ADU that provides more than one bedroom, which shall not exceed 1,000 square feet.
- D. Height Limits – Multi-Family. The maximum height of a detached new ADU on a multifamily property shall not exceed the following limits:
 1. The height limit for detached ADUs is sixteen (16') feet or eighteen (18') feet if the multifamily dwelling contains more than one story.
 2. For ADUs contained within the portion of existing multi-family dwelling that is not used as livable space, the height will not exceed that of the existing space being converted.
- E. Setbacks – Multi-Family.
 1. New Construction: Detached ADUs on multifamily properties shall comply with the setback requirements set forth in the zoning district in which the ADU is located including any applicable overlay district for with the subject property is located except as provided in this subsection.

- a. An ADU shall comply with the front yard setback requirements of the applicable zoning district, except for when an existing structure is converted, maintains a non-conforming setback.
 - i. Detached ADUs shall not be subject to composite setback requirements prescribed in CMC 17.10.040.A, if applicable.
 - 2. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space: No setback shall be required for conversion ADUs provided the structure maintains an adequate setback required for fire safety and access as determined by the Building Official and/or Fire Marshall.
- F. Parking – Multi-Family.
 - 1. No parking shall be required for an ADU except for as provided in the Coastal Access Parking Area, described in section 17.ADU.080.Q.
 - 2. Except for as required in the Coastal Access Parking Area, if the required parking serving a primary dwelling is demolished for the purpose of establishing an ADU, replacement parking for the primary dwelling(s) shall not be required.
 - a. This provision shall not apply for demolition and/or reconstruction of existing dwellings.
 - 3. Development resulting in a loss of off-street parking shall render the site non-conforming, as described in section 17.10.040.F.2.d, if the site does not conform to parking requirements.
- G. Design Review – Multi-Family. All ADUs shall be subject to the provisions outlined in section 17.ADU.060, Design Review.

17.ADU.060 Junior Accessory Dwelling Units.

Junior Accessory Dwelling Units. JADUs shall conform with the following:

- A. A JADU shall be a minimum of 150 square feet not exceed 500 square feet in size and shall contain at least an efficiency kitchen, which includes cooking appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the JADU.
- B. A JADU shall have a separate entrance from the single-family dwelling.
- C. The JADU may, but is not required to, include separate sanitation facilities. If separate sanitation facilities are not provided, the JADU shall share sanitation facilities with the single-family residence. If sanitation facilities are provided as part of the primary dwelling, the JADU shall maintain interior access to the primary dwelling.

1. If a shared sanitation facility is provided with the primary dwelling, the shared sanitation facility shall:
 - a. Be in immediate close proximity to JADU;
 - b. Be accessible from the JADU without entering a separate room within the primary dwelling (accessible via a communal hallway or corridor) and without exiting to the exterior of the dwelling;
 - c. Be counted as part of the square footage of the unit (only the JADU and sanitation facilitation shall be considered in the floor area calculation; the communal corridor or hallway shall not be considered).
- D. Unless the property is owned by a governmental agency, land trust, or housing organization, one of the dwellings on the parcel (either the primary dwelling or JADU) must be the bona fide principal residence of at least one legal owner of the parcel, as evidenced at the time of approval of the JADU by appropriate documents of title and residency.
- E. Prior to issuance of a building permit for a JADU, the owner shall record a covenant in a form prescribed by the city, which shall run with the land and provide for the following. A copy of the recorded covenant shall be filed with the Community Planning and Building Department prior to issuance of a building permit. The covenant shall include the following information:
 1. A prohibition on the sale of the JADU separate from the sale of the single-family residence;
 2. A restriction on the size and attributes of the JADU consistent with this section;
 3. A prohibition against renting the property for fewer than 30 consecutive calendar days; and
 4. A requirement that either the primary residence or the JADU be the owner's bona fide principal residence, unless the owner is a governmental agency, land trust, or housing organization.
- F. Parking is not required for JADUs. However, if an existing attached garage is replaced by a JADU, each removed required parking space must be replaced with an off-street parking space that complies with the requirements of the underlying zoning district.

17.ADU.070 Design Review.

The following shall apply to the design and exterior appearance for all ADUs and JAUDs.

- A. Type 1 and Type 2 Units:
 - a. The unit(s) shall comply with all applicable Administrative ADU Design Standards adopted by the Planning Commission. The Planning Commission may develop, and from time to time amend, the administrative standards provided the standards set forth for ADUs are objective and the criteria can be evaluated without discretion.

- b. In the absence of adopted administrative design standards for ADUs, the accessory dwelling shall be constructed with exterior materials that have the same texture and appearance to the primary dwelling, including but not limited to roofing, siding, and windows and doors.

B. Type 3 Units:

- a. The unit(s) shall comply with the adopted Residential Design Guidelines.

17.ADU.080 Accessory Dwelling Units, General.

The following standards and requirements apply to all ADUs and JADUs:

- A. Permit Required. No person shall develop, construct, cause to be rented, or occupy an ADU or JADU on any lot within the city unless a building permit and associated approvals are obtained by the Community Planning and Building Department pursuant to the procedures and standards set forth in this chapter.
 - 1. Prior to building permit issuance, the building official shall find that all local building code requirements have been satisfied, except that the construction of an ADU shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was unhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.
- B. Certificate of Occupancy. A certificate of occupancy for an ADU or JADU shall not be issued before the issuance of a certificate of occupancy for the primary dwelling.
- C. Site Requirements. The building site is zoned to allow single-family or multifamily dwelling residential use and lot must contain a proposed or existing single-family dwelling, or existing multifamily dwelling. Notwithstanding any provision of this code to the contrary, an ADU shall be a permitted use in any zone where a single-family or multifamily dwelling is permitted.
 - 1. Prohibited Locations.
 - a. The establishment of an ADU or JADU shall not be allowed through any permit or license on any building site where sufficient water to support the ADU or JADU is not available for the site.

- b. The establishment of an ADU or JADU shall not be permitted on any portion of a building site not considered as part of the "buildable area" of a site, as defined in CMC 17.70.020.
 - c. The establishment of an ADU or JADU shall not be allowed through any permit or license on any building site located within the Very High Fire Hazard Severity Zone (VHFHZ) unless equipped with a fire sprinkler system approved by the Fire Marshall.
- D. Fire Sprinklers. Notwithstanding any other provision of the Carmel Municipal Code, installation of fire sprinklers in an ADU of any type shall be required only if they are required for the primary dwelling unit. The construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling except as provided below.
 - 1. Fire sprinklers shall be considered "required for the primary dwelling unit" in any of the following circumstances:
 - a. When fire sprinklers are currently installed in the primary dwelling unit;
 - b. When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an ADU; or
 - i. For purposes of this subsection (1)(b), the term "constructed concurrently" shall mean construction of a primary dwelling unit that is performed in reliance on a building permit issued within two (2) years of the date of issuance of a building permit for construction of an ADU.
 - c. When fire sprinklers will be installed in an existing primary dwelling unit as the result of an addition to the primary dwelling unit which addition triggered a requirement for retroactive installation of fire sprinklers in the primary dwelling unit in accordance with SOG 23-01, Determining Fire Sprinkler Retrofit Requirements, and the Carmel Municipal Code, and the permit application also includes the establishment of an ADU; or
 - d. The existing building site is located within the Very High Fire Hazard Severity Zone (VHFHZ) pursuant to CMC 17.ADU.070.C.1.c.
 - 2. The floor area of an ADU contained within the existing space of a single-family dwelling or accessory structure or multi-family dwelling shall not be considered an "addition" under any provision of the Carmel Municipal Code related to retroactive installation of fire sprinklers in a structure.
- E. Deed Restriction. Prior to issuance of a building permit for a ADU, the owner shall record a covenant in a form prescribed by the city, which shall run with the land and provide for the following. A copy of the

recorded covenant shall be filed with the Community Planning and Building Department prior to issuance of a building permit. The covenant shall include the following information:

1. A prohibition on the sale of the ADU separate from the sale of the single-family residence except as authorized in Gov. Code, §65852.26;
 2. A restriction on the size and attributes of the ADU consistent with this section; and
 3. A prohibition against renting the property for fewer than 30 consecutive calendar days.
- F. Drainage. Permit applications for the creation of a new attached or detached ADU shall comply with the requirements of CMC 15.18, Site Drainage.
- G. Utilities. An ADU may have shared or separate utility services (i.e., an electrical and/or gas meter) from the primary dwelling.
- H. Rental Term. Rental of any unit created pursuant to this chapter shall be for a term of 30 days or more.
- I. No Separate Conveyance. The ADU may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence except as authorized in Gov. Code, §65852.26.
- J. Story Poles. Story poles shall be installed consistent with the city's Story Pole Policy (Resolution 2017-122) for all ADUs that require a Coastal Development Permit where any addition of floor area or building height is proposed.
- K. Transient Rental, Housing Incentive. An ADU created pursuant to this chapter shall not constitute construction of a new rental unit as described in CMC 17.14.040.W.2, Transient Rental, Housing Incentive.
- L. Mills Act. An ADU or JADU proposed on a property subject to a Mills Act Contract must comply with the provisions of the contract, including conformance to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, the United States Secretary of the Interior's Standard for Rehabilitation, the California Historical Building Code, and the city's Historic Preservation Ordinance.
- M. Access.
1. Exterior access. The ADU and/or JADU must have exterior access independent of the main unit.
 2. Inter-accessibility. An attached accessory dwelling unit that exceeds the allowable base floor area for the site shall be an independent dwelling unit with no inter-accessibility,

interconnectivity, internal circulation, or other means of passage between the primary dwelling and ADU. This provision shall not apply to JADUs which may share circulation into the primary dwelling as described in section 17.ADU.050.C.

N. **Building Separation.** No minimum distance is required between structures. An ADU shall be considered attached to the primary dwelling unit or any other building when there is a common wall, common roof, or a horizontal connection at least thirty (30") inches above grade. Horizontal connections, including but not limiting to, retaining walls and/or decking between an ADU and the primary dwelling unit or any other building that are less than thirty (30") inches above grade are not considered a connection.

1. It is recommended a minimum of three (3') foot wide clear path of travel be maintained between buildings.

O. **Passageway.** No passageway shall be required in conjunction with the construction of an ADU.

P. **Standards for Accessory Structure Conversions.**

1. If a legally permitted accessory structure is demolished for the purpose of converting the structure to an ADU with the same dimensions, including but not limited to floor area, height, roof pitch, setbacks, the ADU can be rebuilt on the footprint of the existing accessory structure. A structure that is reconstructed beyond any of the existing dimensions of the existing structure shall not be considered a conversion and be subject to the applicable standards for a new detached ADU, except that a 150 square foot addition for ingress and egress may be allowed.
 - a. When a legally permitted existing accessory structure is demolished for the purpose of converting the structure to an ADU, a survey, prepared by a California Licensed Surveyor or Engineer, shall be submitted with the building with the building permit application certifying the following prior to demolition of the subject structure:
 - i. [CRITERIA TBD]
2. **Carport Conversion.** When a carport is converted, an "imaginary wall plane" will be drawn around the exterior of the existing support posts. That wall plane becomes the exterior walls/footprint for the purposes of the conversion. An ADU cannot be expanded beyond that wall plane.
3. **Demolition Permits.** A demolition permit for a detached garage that is to be replaced with an ADU shall be reviewed with the application for the ADU and issued at the same time as the ADU.

Q. **Subordinate Units**

1. A nonconforming subordinate unit may be converted to a permitted ADU or JADU upon submittal of a building permit application demonstrating the unit meets the requirements outlined in this chapter for either an ADU or JADU, as appropriate, including evidence the unit was originally classified as a subordinate unit. All fees assessed by the city shall be waived for the conversion of a subordinate unit to an ADU or JADU provided there are no other building permits proposed as part of the application.
 - a. The property owner shall remove any covenants or restrictions associated with the subordinate unit as part of the building permit application. If covenants or restrictions are to be removed, said restriction shall be rescinded prior to a certificate of occupancy for the newly established ADU.

R. Non-Conformities.

1. The city shall not deny an application for a permit to create an ADU due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the ADU.
2. A non-conforming detached accessory structure may be re-built or re-constructed in-kind pursuant to 17.ADU.070.T.1. Demolished non-conformities may be re-built or re-established provided the reconstruction is for the benefit of the ADU only, and non-conformities are not expanded.

17.ADU.080 Coastal Resource Protections.

- A. Purpose : The purpose of this title is to harmonize the requirements of Government Code Sections 66310-66342, with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code as provided in Government Code Section 66329.
- B. Findings:
 1. The entirety of the City of Carmel-by-the-Sea is located within the boundary of the Coastal Zone. The City's Local Coastal Program was certified by the California Coastal Commission in October of 2004. In accordance with Government Code Section 66329, the California Coastal Act of 1976 is neither superseded nor in any way altered or lessened except that a public hearing for Coastal Development Permit applications for ADUs shall not be required.
 2. A Coastal Development Permit is required for all new development within the Coastal Zone. As defined by the Coastal Act, development refers to both "the placement or erection of any solid material or structure" on land as well as any "change[s] in the density or intensity of use of land[.]" (Pub. Res. Code § 30106.)

3. A Coastal Development Permit (CDP) is the regulatory mechanism by which proposed developments in the coastal zone are brought into compliance with the policies of Chapter 3 of the Coastal Act.
 - a. The policies applicable to the City of Camel of Chapter 3 of the Coastal Act have been incorporated into the city's certified Local Coastal Program.
4. The City's Land Use Plan describes the associated Land Use Chapters of the Local Coastal Program in the following manner:
 - a. **Land Use and Community Character.** This Chapter of the General Plan covers topics required in the Land Use Element. This heading also includes policies for topics in sections 30244 and 30250 through 30254 of the Coastal Act.
 - i. This Element integrates land use policies with issues of design, aesthetics and historic preservation as part of the Coastal Land Use Plan for the City.
 - b. **Circulation.** This Chapter or Element of the General Plan is one of the seven elements required by California Statutes. Several of the policies in this element also implement provisions of the Coastal Act.
 - i. This element is a required element of the City's General Plan (Government Code Section 65302(b)). Many of the policies in this Element are also part of the Local Coastal Land Use Plan and are noted as such (LUP).
 - c. **Coastal Access and Recreation.** This Chapter includes policies for topics covered in sections 30210 through 30224 of the Coastal Act.
 - i. This Element includes policies to protect and enhance public access to the coast is mandated by the California Coastal Act.
 - d. **Coastal Resource Management.** This Chapter of the General Plan includes policies for topics in sections 30230 through 30243 and 30251 of the Coastal Act.
 - i. This element includes policies for protection of the City's coastal environmental resources including the character of its forest, beach and bluffs, water quality and Environmentally Sensitive Habitat Areas (ESHAs).
5. As described in the city's Land Use Plan, "The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics" (LUP).

- a. Coastal Act Section 30251 requires *“The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.”*
- b. Coastal Act Section 30253 requires: *“New development shall do all of the following:*
 - i. *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
 - ii. *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*
 - iii. *Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.*
 - iv. *Minimize energy consumption and vehicle miles traveled.*
 - v. *Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.”*
- 6. ADUs are permitted on all building sites that allow for single-family and multi-family dwelling and there is no limitation in the total potential number of housing units created through ADUs based on the Coastal Resource Protections described herein or elsewhere in this ordinance.
- C. Applicability: All ADUs and JADUs shall comply with the following requirements for the protection of coastal resources, as applicable:
 - 1. Views. The incorporated limits of the City of Carmel-by-the-Sea is designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253. Accordingly, a proposed ADU shall:
 - a. Be cited and designed to protect views to and along the ocean and scenic coastal areas;
 - b. Minimize the alteration of natural land forms and work with the topography of the site;
 - c. Be visually compatible with the character of surrounding areas including, but not limited to: the type of forest resources present, the character of the street, the response to local topography and the treatment of open space resources such as setbacks and landscaping, and not presenting excess visual mass or bulk to public view or to adjoining properties.

2. **Overlay Districts.** Except as modified by this chapter, the ADU shall conform to all requirements of any applicable overlay district, including but not limited to established height limits, setbacks, environmental reports, described within CMC 17.20, except that no public hearing shall be required for Type 1 and Type 2 ADUs and the duties and powers designated to any board or commission shall be designated to the Director, as applicable, in the review of the ADU. Standard processing procedures shall be followed, as applicable, for Type 3 ADUs.
 - a. **Appealable Coastal Development Permits.**
3. **Historic Resources.** An ADU or JADU proposed on a property with a historic resource shall be subject to the provisions outlined in CMC 17.32 except that no public hearing shall be required for Type 1 and Type 2 ADUs and the duties and powers designated to any board or commission shall be designated to the Director, as applicable, in the review of the ADU. Standard processing procedures shall be followed, as applicable for Type 3 ADUs. A Determination of Consistency with the Secretary of the Interior's Standards shall be required for all major and minor alterations, as appropriate.
4. **Trees.** No tree, as described in CMC 17.48.050.A.1.a or CMC 17.48.050.A.1.b, shall be removed or pruned for the purpose of establishing an ADU except in accordance with CMC 17.48.050.
 - a. Significant trees shall only be removed in accordance with CMC 17.48.070.B.
 - b. If trees are permitted by the City to be removed to facilitate the construction of an ADU that would otherwise preclude the development of an ADU replacement trees shall be provided on-site pursuant to CMC 17.48.080,. Alternative locations may be approved by the city forester, as appropriate.
 - c. All compaction of soils, construction of building walls, or placement of impermeable surfaces shall be setback a minimum of six feet from all trees.
5. **Non-Conforming Site Coverage.** Within the R-1 Zone District, sites shall comply with the provisions of CMC 17.10.030.C.2, as applicable.
6. **Coastal Access Parking Area.** Project sites located within the Coastal access parking area, as illustrated in Figure 1, below, shall be required to provide one (1) on-site parking space per ADU in addition to any required parking to the primary dwelling.
 - a. Within the R-1 District, parking may be provided as an uncovered tandem space within the front or side yard setback located on the driveway in front of a garage or carport or elsewhere on the property where parking is allowed by the underlying zoning district.

- i. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be provided ministerially for the ADU and shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC 12.24.020.A-L are otherwise met.
- b. Within all districts other than the R-1 District, replacement parking shall follow the standards prescribed in CMC 17.38, off-street parking requirements.
- i. Unless expressly specified in the Community Plan, Community Plan Districts shall comply with the provisions of CMC 17.38.

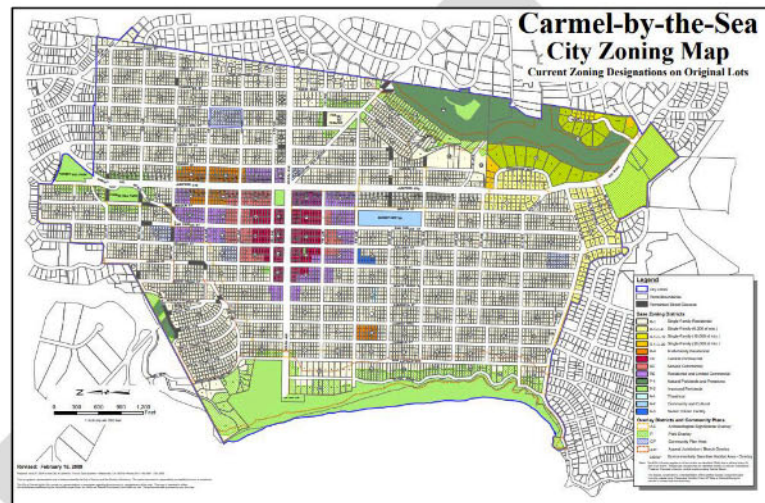


FIGURE 1. Coastal Access Parking Area [Map forthcoming].

- 7. Front Setback. Type 2 and Type 3 ADUs shall comply with the front yard setback requirements of the applicable zoning district including the front setback. New Type 3 ADUs may be established within the front yard setback when the findings for locating a garage/carport established in CMC 17.10.030.A. 1.a, are made in the affirmative through the appropriate CDP process, as applicable.
- 8. Additional Accessory Structures. Except as provided in CMC [17.10.040](#), Lot Mergers, no more than two accessory structures may be constructed on each building site.
- 9. Building sites with ADUs shall be prohibited from constructing, maintaining and/or building guesthouses or studios.

17.ADU.100 Application and Review Procedures.

A. Timing

1. The city shall ministerially approve or disapprove a complete building permit application for an ADU or JADU in compliance with the time periods established by State law. If a Coastal Development Permit is required, the Coastal Development Permit may be processed concurrently with the building permit application for the creation of the ADU/JADU, however, no building permit application shall be deemed complete until any required associated Coastal Development Permit has been approved.

B. Standard of Review

1. The following review procedures shall apply to all ADUs and JADUs:
 - a. Type 1 Units – Ministerial Review.
 - i. The following types of units are classified as Type 1 units and are eligible for Type 1 review:
 - a. The conversion of an existing, legally established habitable space to a ADU and/or JADU within an existing primary dwelling, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure.
 - ii. Type 1 units located in the Coastal Access Parking Area, located on the site of a Historic Resource, or located within the Beach and Riparian Overlay west of San Antonio Avenue or west of North Carmelo Avenue shall be processed as a Type 2 Application.
 - iii. Type 1 Units shall be exempt from all Coastal Development Permit Requirements and shall be considered ministerially.
 - b. Type 2 Units – Administrative Review.
 - i. The following types of units are classified as Type 2 units and are eligible for Type 2 review:
 - a. Attached and detached ADUs which comply with within floor area limits of the site, and/or
 - b. Type 1 units located in the Coastal Access Parking Area, located on the site of a Historic Resource, or located within the Beach and Riparian Overlay, and/or converted from nonhabitable space.
 - c. Any unit not specifically classified as a Type 3 unit.

- ii. All Type 2 units shall require approval of an Administrative Coastal Development Permit prior to building permit issuance.
- c. Type 3 – Standard Review.
 - i. The following types of units are classified as Type 3 units and are subject to Type 3 review:
 - a. Any ADU which receives a floor bonus/exemption of up to 800 sf above the allowable floor area for the site for the construction of an ADU, unless converted from existing floor area on the site, and/or
 - b. Any new attached or detached ADU located in the Beach and Riparian Overlay District west of San Antonio Avenue or west of North Carmelo Avenue.
 - c. Any new ADU proposed concurrently, and reliant, on a Track 2 application for a new dwelling, rebuild, or substantial alteration of a primary dwelling.
 - d. Any ADU for which the applicant requests deviation from adopted applicable standards
 - ii. All Type 3 units shall require approval of a Coastal Development Permit as follows:
 - a. Administrative Review. New attached and detached units additions that do not increase existing floor area of the building site on which they are located by more than 10 percent or do not increase the height of the existing structure by more than 10 percent shall reviewed administratively.
 - b. Standard Review. New attached and detached units additions that increase existing floor area by more than 10 percent or more, or increase the height of the existing structure by 10 percent or more shall reviewed consistent with procedures outlined in CMC 17.58.040.B.
- 2. Ministerial Review. Applications for ADUs and/or JADUs on a lot with an existing or proposed single-family residence or multifamily dwelling units that conform to the requirements of this section shall be considered as ministerial permits without discretionary review or a hearing, and the City shall approve or deny such applications within 60 calendar days after receiving the completed application. If the permit application to create an ADU, and/or JADU, is submitted with a permit application to create a new single-family dwelling on the lot, the city may delay

acting on the permit application for the ADU until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the ADU shall still be considered as a ministerial permit without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

3. Coastal Development Permits. For ADUs and JADUs that constitute development and therefore require a Coastal Development Permit: the City shall approve or deny coastal development permit applications within 60 calendar days after receiving the completed application to the extent feasible consistent with section 17.ADU.100.C, below. No building permit application shall be deemed complete until a Coastal Development Permit subject to the provisions of this section has been approved and any applicable appeal period has concluded.
 - a. Note: Most ADUs and JADUs constitute development if they include, for example, new construction of a detached ADU, new construction of an attached ADU, or conversion of an existing, uninhabitable, attached or detached space to a ADU or JADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the “placement or erection of solid material,” and the conversion of existing, uninhabitable space would generally constitute a “change in the density or intensity of use.” Therefore, these activities would generally constitute development in the coastal zone that requires a CDP.
4. Type 3 Review Request. The applicant may submit an application for a Type 3 review of the ADU that deviates from the standards of this chapter but is otherwise within the discretionary and/or permitting purview of the city.

C. Coastal Development Permits.

1. All ADUs and JADUs classified as Type 1 units shall be exempt from Coastal Development permit requirements.
2. Coastal Commission Appeals Jurisdiction – Beach and Riparian (BR) Overlay.
 - a. Type 2 Applications.
 - i. For Type 2 Coastal Development Permits that are appealable to the California Coastal Commission, as described in the Carmel Municipal Code, the authority to review an application for a Coastal Development Permit is designated to the Director of Community Planning and Building or the Director's designee. Prior to approval of the Coastal Development Permit, the Director shall find that the Coastal Development Permit meets the findings identified in CMC 17.64.010.B, Coastal Development Permits. The Director shall not approve an application for a Coastal Development permit that is not found to be consistent with CMC 17.64.010.B.

At least 10 days before the City's decision on the application, the City shall provide notice, by first-class mail to all owners of real property, as identified on the last equalized property tax assessment roll within 300 feet. The notice shall include:

- a. The date the application will be acted upon by the City's review authority;
- b. A statement that the development is within the coastal zone;
- c. The date of filing of the application and the name of the applicant;
- d. The number assigned to the application;
- e. A description of the development and its location;
- f. The procedure for which an appeal may be filed with the California Coastal Commission.

The Director's decision shall be final and any appeals of the decisions of the Director or the Director's designee shall be appealed directly to the California Coastal Commission. Actions on applications to construct ADUs within these areas shall be consistent with the provisions of the applicable zone and the policies and development standards of the City of Carmel's certified Local Coastal Program and Chapter 3 of the California Coastal Act.

b. Type 3 Applications.

- i. For Type 3 Coastal Development Permits that are appealable to the California Coastal Commission, the appeal procedures established CMC 17.54 shall apply.

3. Non-Appealable Coastal Development Permits.

a. Type 2 Applications

- i. For Type 2 Applications that are not appealable to the California Coastal Commission and a Coastal Development Permit is required, the authority to review an application for a Coastal Development Permit is designated to the Director of Community Planning and Building or the Director's designee. Prior to approval of the Coastal Development Permit, the Director shall find that the Coastal Development Permit meets the findings identified in CMC 17.64.010.B, Coastal Development Permits. The Director shall not approve an application for a Coastal Development permit that is not found to be consistent with CMC 17.64.010.B.

At least 10 days before the City's decision on the application, the City shall provide notice, by first-class mail to all owners of real property, as identified on

the last equalized property tax assessment roll within 300 feet. The notice shall include:

- a. The date the application will be acted upon by the City's review authority;
- b. A statement that the development is within the coastal zone;
- c. The date of filing of the application and the name of the applicant;
- d. The number assigned to the application;
- e. A description of the development and its location;
- f. A statement that the decision of the director is final and not appealable.

The decision of the Director, or the Director's designee shall not be appealable and constitute the final action of the City.

b. Type 3 Applications.

- i. For Type 3 Coastal Development Permits that are appealable to the California Coastal Commission, the appeal procedures established CMC 17.54 shall apply.

D. Denials.

If the city denies an application for an ADU or JADU pursuant to section 17.ADU.100.B.1, the Director, within the time period described in 17.ADU.100.B.1, shall return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

17.ADU.010 Definitions.17.ADU.020 Purpose and intent
17.ADU.030 Applicable Zoning Districts
17.ADU.040 Development Standards for ADUs of Single Family Properties.
17.ADU.050 Development Standards for ADUs of Multi-Family Properties.
17.ADU.060 Junior Accessory Dwelling Units
17.ADU.070 Design Review.
17.ADU.080 Accessory Dwelling Units, General.
17.ADU.100 Coastal Resource Protection
17.ADU.100 Application and Review Procedure.

17.ADU.010 Definitions

As used in this chapter, terms are defined as follows. Terms not defined below shall take the definition as otherwise define in Title 17 of the Carmel Municipal Code.

Commented [EK1]: PC Comment - Moved to front of Ordinance

- A. **Accessory Dwelling Unit (ADU).** "Accessory Dwelling Unit" or "ADU" means an attached or a detached residential dwelling unit that provides complete independent living facilities and permanent provisions for living, sleeping, eating, cooking, sanitation, and connection to utilities for one or more persons and is located on a lot with a proposed or existing primary residence or multi-family residences. An ADU also includes the following: An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, and a manufactured home, as defined in Section 18007 of the California Health and Safety Code. ADUs do not include mobile homes, tiny homes, or recreational vehicles licensed by the Department of Motor Vehicles (DMV).
1. **Attached.** An "Attached ADU" means an ADU that does not qualify as a conversion ADU and is constructed as a physical expansion (i.e. addition) to the primary dwelling. An attached ADU may be attached to the Single-Family Dwelling Unit by one or more common walls or other means but shares a physical connection. An attached ADU distinct from the definition of a junior ADU.
 2. **Detached.** A "Detached ADU" means an ADU that is within an independent structure entirely separate and shares no physical connection to the primary dwelling unit and/or other accessory structures.
 3. **Conversion.** A "Conversion ADU" means an ADU that is constructed completely within the existing or proposed space of a single family residence, an existing detached accessory structure, or an existing multi-family structure. Conversion ADUs are located completely within the existing or proposed floor area of the structure in which they are located, except for expansions for ingress and egress as allowed within this chapter.
- B. **Accessory structure.** A structure that is accessory and incidental to, and detached from, a dwelling located on the same site.

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- C. **Administrative Review (Administrative; Administratively).** A review which may include discretion or use of personal judgement that does not require consideration or approval at a public hearing.
- D. **Complete independent living facilities.** Permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.
- E. **Coastal access parking area.** The Coastal Access Parking Area is defined as all properties located within the Beach and Riparian (BR) Overlay District located west of the centerline of Carmelo Street and west of the centerline North San Antonio Street, as well as all properties with street frontages located on San Antonio Avenue or North San Antonio Avenue.
1. If a property is not located immediately adjacent to a street frontage (flag lot, easements, etc), the frontage shall be determined by the driveway location of the subject property.
- F. **Coastal Development Permit.** A Coastal Development Permit (CDP) is the regulatory mechanism by which proposed developments in the coastal zone are brought into compliance with the policies of Chapter 3 of the Coastal Act.
1. Note: The policies applicable to the City of Camel of Chapter 3 of the Coastal Act have been incorporated into the city's certified Local Coastal Program.
- G. **Historic Resource.** For purposes of this section, a Historic Resource shall be a property listed, or eligible for listing, on the National Register of Historic Places or the California Register of Historical Resources, listed on the Carmel Inventory or Register of Historic Resources, or located in a designated historic district.
- H. **Junior Accessory Dwelling Unit** (Also known as "Junior ADU" or "JADU"). A unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- I. **Manufactured Home.** A unit as defined by Section 18007 of the California Health and Safety Code, as may be amended.
- J. **Ministerial Review (Ministerially).** A review that does not require discretionary action or review, personal judgement, or a public hearing.
- K. **Passageway.** A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- L. **Primary Dwelling.** A "Primary Dwelling" or "primary residence" means a single-family or multifamily residential dwelling unit that either exists on or is proposed for a lot zoned for any residential or mixed-use zone, either through a permitted use or a conditional use, and is constructed prior to or concurrently to the ADU or JADU. The primary dwelling shall include all attached non-habitable areas, such as attached garages, but does not include detached accessory structures on the same building site.

Commented [EK2]: PC Comment - Definition Clarified.

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1. **Multi-Family Dwelling.** A structure with two or more attached dwellings on a single lot, and any mixed use structure containing commercial floor area and one or more dwelling units. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings, nor are subordinate units, or existing ADUs.
2. Condominium units shall be defined as single family or multi-family based on the parcel map that defines the space of the primary dwelling.

M. **Proposed dwelling.** A dwelling that is the subject of a permit application and that meets the requirements for permitting and is subject to a Design Review Application, subject to CMC 17.58.

N. **Sanitation Facilities.** Sanitation facilities means a room containing a toilet, sink, and bathtub or shower. Sanitation facilities may also be referred to as a bathroom or restroom.

O. **Subordinate Units.** The city has previously classified two types of subordinate dwellings:

- i. Legal nonconforming units that were established prior to June 5, 1929. These units were legally established and required no permit. These units were originally classified as subordinate units.
- ii. Legal nonconforming units that were established prior to April 5, 1988, and registered with the City by December 6, 1994. These units typically were built without City approval but were then legalized and brought to minimum health and safety standards through an amnesty period and registration. These units were originally classified as subordinate units.

17.ADU.020 Purpose, Intent, and Findings.

- A. To enact regulations governing Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) construction in compliance with Section 65852.2 and Section 65852.22 of the Government Code, or any successor statute. The provisions of this article shall be liberally construed in order to accomplish development of ADUs and JADUs. In the event of a conflict between the provisions of this article and any other ordinance of the City of Carmel-by-the-Sea regulating ADUs or JADUs, the provisions of this article shall prevail.
- B. To establish a process for ministerial review and approval of ADUs and JADUs. No local ordinance, policy, or regulation other than this article and regulations referenced therein shall be the basis for the denial or delay of a building permit for an ADU or JADU.
- C. The provisions of this chapter shall only be applicable to the establishment of ADUs and/or JADU (that being the establishment of the dwelling unit). Other improvements made to the site, including but not limited to, improvements to the primary dwelling, site coverage improvements/modifications, decks, patios, landscaping, grading, parking, shall be undertaken in accordance with the applicable regulations and procedures in CMC 17.58 unless expressly authorized in this chapter.

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- D. To provide for additional affordable housing opportunities without a commitment of public funds which are usually necessary to subsidize large-scale affordable housing development projects;
- E. To provide for convenient child care opportunities within residential neighborhoods. For working-age residents with children, ADUs allow family members or other child care providers to reside in close proximity to the household requiring child care. The nearby availability of child care for their children offers working-age residents convenience, and more importantly, may enable them to work and support their families without the burden of commercial child care costs;
- F. To provide for convenient elder care opportunities within residential neighborhoods. ADUs and JADUs enable multi-generational living on a common site. As Carmel's population ages, ADUs and JADUs allow family members or other caregivers to reside in close proximity to those receiving care while affording them the privacy of their own living space. For those receiving care, ADUs and JADUs will enable many to remain in their homes longer than would otherwise be possible without needing to relocate to an assisted living or other facility;

17.ADU.030 Applicable Zoning Districts.

- A. An ADU that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The ADU shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
 - 1. *Community Plan and Specific Plan Area.* The provisions of subsection (A), above, shall apply to sites zoned as Community Plan or Specific Plan areas where the approved development plan includes residential uses as a permitted use, including mixed use. In cases where the details of the original development plan are not available, the Director may determine whether a site was intended for residential use as a permitted use by considering the use of any existing structures on the site in addition to the uses of structures and the development pattern of the area immediately surrounding the site.

17.ADU.040 Development Standards for ADUs on Single Family Properties.

The following standards apply to ADUs and JADUs on all properties within all zoning district that allows single-family dwellings developed with an existing or proposed single family dwelling.

- A. Location – Single Family.
 - 1. Number of ADUs. A maximum of one (1) ADU, and one (1) JADU shall be allowed on a single-family property.

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- a. One (1) additional ADU shall be permitted on a building site when the existing or proposed units are limited to: one (1) conversion ADU, one (1) detached ADU, and one (1) JADU.

Commented [EK3]: Response to HCD – Comment #1.

- b. JADUs are allowed consistent with section 17.ADU.060.

2. Location on site. An ADU may be attached to, detached from, or located within the existing or proposed primary dwelling on the same building site. An ADU may also be converted from a garage or other existing accessory structure on the same building site as the existing primary dwelling.

B. Floor Area – Single Family.

The floor area of an ADU and/or JADU is included in any other floor area limitation in this Title that is applicable to an attached or detached accessory building for the housing type and in the base zone in which the lot is located.

- a. Notwithstanding CMC 17.ADU.030.B.1, an 800 square foot floor area allowance may be allowed exclusively for the creation of an attached or detached Type 3 ADU, as described in section 17.ADU.xxx.

Commented [EK4]: Response to HCD - Comment #2

2. For the purposes of development of other structures on the property, the floor area of an existing ADU shall be counted in the calculation of the property's total lot coverage and floor area ratio.
3. The floor area of an ADU shall not exceed the floor area of an existing or proposed primary dwelling.

Exceptions for attached and detached units: If the existing or proposed primary dwelling is 800 square feet or less, the ADU shall be allowed a maximum of 800 square feet regardless of such condition, as provided in section 17.ADU.030.C.1.a.

Commented [EK5]: Response to HCD - Comment #4

- C. Unit Size – Single Family. The standards below provided the maximum and minimum unit sizes for ADUs. Establishment of an ADU within these standards shall require floor area available for establishment of the unit consistent with section 17.ADU.040.B, above.

1. New Construction Attached ADU. An ADU attached to the primary dwelling shall have a minimum floor area of 150 feet, and shall not exceed 50 percent of the existing floor area of the primary dwelling.
 - a. If the square footage of the primary dwelling does not allow for an attached ADU of at 800 square feet, a maximum allowance of 800 square feet shall be allowed for the unit size of the attached ADU.
 - b. An attached garage shall be included in the square footage of the primary dwelling whether a portion of the garage is converted to an ADU or demolished as part of the establishment of the ADU, or not.

Commented [EK6]: Response to HCD – Comment #5

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2. New Construction Detached ADU. A detached ADU shall have a minimum floor area of 150 square feet, and shall not exceed 850 square feet, except for an ADU that provides more than one bedroom, which shall not exceed 1,000 square feet.
3. Conversion ADUs. A conversion ADU shall have a minimum floor area of 150 square feet. The maximum floor area of an ADU that converts a portion of a primary dwelling shall be no more than 50% of the existing floor area of the dwelling being converted. An ADU that is created through the conversion of an existing detached accessory structure shall have no size restriction (i.e. the entire detached accessory structure may be converted regardless of the size).
 - a. For the full conversion of accessory structures, an expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed. The 150 square foot addition shall comply with all setbacks and height limits of the underlying zone district.

D. Height Limits – Single Family. The maximum height of an attached or detached new ADU shall not exceed the following limits:

1. New Construction: Attached and detached ADUs shall comply with the height limits set forth in the zoning district in which the ADU is located. All new attached and detached ADUs shall comply with the plate and ridge heights established in table 17.10-C located in CMC 17.10.030.B.
 - a. Exceptions. The maximum ridge height for all structures shall be sixteen (16') feet with a twelve (12') plate height in the following instances:
 - i. The height of the primary dwelling unit is less than sixteen (16') feet;
 - ii. Any portion of a detached ADU is located between a primary dwelling unit and a site's front setback line; or
 - iii. Any portion of a detached ADU is located less than four (4') from the side lot line or less than fifteen (15') feet from the rear lot line.
2. For a conversion ADU (without an expansion): the ADU shall be contained completely within the existing structure, and maintain the existing height of the converted structure.
 - a. An expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed for existing accessory structures. The 150 square foot addition shall match the plate and ridge heights of the existing accessory structure.

E. Setbacks – Single Family.

1. New Construction: Attached and detached ADUs shall comply with the setback requirements set forth in the zoning district in which the ADU is located including any applicable overlay district for with the subject property is located except as provided in this subsection.

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- a. Detached ADUs shall not be subject to composite setback requirements prescribed in CMC 17.10.040.A.
2. For a conversion ADU (without an expansion): No setback shall be required for conversion ADUs provided the structure maintains an adequate setback required for fire safety and access as determined by the Building Official and/or Fire Marshall.
 - a. An expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed for existing accessory structures. The 150 square foot addition shall comply with all minimum setbacks limits described above.

F. Parking – Single Family.

1. No parking shall be required for an ADU except for as provided in the Coastal Access Parking Area, described in section 17.ADU.080.Q, where on site parking shall be provided for all ADUs.
2. Except for as required in the Coastal Access Parking Area, when the required parking serving a primary dwelling is demolished for the purpose of establishing an ADU, replacement parking for the primary dwelling shall not be required.
 - a. This provision shall not apply for demolition and/or reconstruction of existing dwellings.
 - b. This provision shall not apply to JADUs, as described in section 17.ADU.060.F.
 - c. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be voluntarily provided as replacement parking for the primary dwelling and approved administratively as part of the permit application for the ADU. The parking pad shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC 12.24.020.A-L are otherwise met.
 - i. Replacement garages or carports voluntarily provided shall be subject to Design Review pursuant to CMC 17.56 and shall be required to comply with applicable floor area and site coverage limitations for the site.
3. Development resulting in a loss of off-street parking shall render the site non-conforming, as described in CMC 17.10.040.F.2.d, if the site does not conform to parking requirements.

G. Design Review – Single Family. All ADUs shall be subject to the provisions outlined in section 17.ADU.070, Design Standards.

17.ADU.050 Development Standards for ADUs on Multi-Family Properties.

The following standards apply to ADUs and JADUs developed on multi-family residential properties or mixed-used developments at any density:

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A. Location – Multi-Family.

1. Number of ADUs. For all existing multi-family or mixed-use developments, subsections (a) through (c) below shall apply.
 - a. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space:
 - i. The equivalent number of twenty-five (25%) percent of the existing multi-family dwelling units (no less than one (1) unit).
 - b. ADUs detached from existing or proposed multi-family dwelling structures ():
 - i. Up to two (2) ADUs
 - ii. For the purpose of this subsection, a detached ADU shall mean an ADU that is detached from the multi-family dwelling, and shares no common connection with a commercial use or occupancy, if cited on a mixed-use property or development.
 - c. JADUs shall not be permitted in multi-family or mixed-use use developments.
2. Location on site.
 - a. ADUs may be located within the portion of existing multi-family dwelling structures that are not used as livable space including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
 - i. In mixed-use buildings, the non-livable space used to create an ADU or ADUs shall be limited to the residential areas of a mixed-use development, and not the areas used for commercial or other activities. The parking and storage areas for these non-residential uses shall also be excluded from potential ADU development.
 - b. ADUs may be detached from an existing or proposed multi-family dwelling structure and all accessory structures including, without limitation, garages and storage areas on the same site

Commented [EK7]: Response to HCD - Comment #13

Commented [EK8]: Response to HCD Comment #12

B. Floor Area – Multi-Family.

1. The floor area of an ADU is included in any other floor area limitation in this Title that is applicable to a detached accessory building for the housing type and in the base zone in which the lot is located.

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- a. Notwithstanding CMC 17.ADU.030.B.1, an 800 square foot floor area allowance may be allowed exclusively for the creation of a detached Type 3 ADU, as described in section 17.ADU.xxx.
2. For purposes of development of other structures on the property, the floor area of an existing ADU shall be counted in the calculation of the property's total lot coverage and floor area ratio.
3. The floor area of an ADU shall not exceed the floor area of an existing or proposed primary dwelling.
 - a. Exceptions for attached and detached units: If the existing or proposed primary dwelling is 800 square feet or less, the ADU shall be allowed a maximum of 800 square feet regardless of such condition, as provided in section 17.ADU.030.C.1.a.
- C. Unit Size – Multi-Family. The standards below provide the maximum and minimum unit sizes for ADUs on multifamily properties. Establishment of an ADU within these standards shall require available floor area for establishment of the unit consistent with section 17.ADU.040.B, above.
 1. ADUs contained within the enclosed space of an existing multi-family dwelling that is not used as livable space:
 - a. The minimum size of the ADU shall be 150 square feet. The maximum size of an ADU that is a conversion of a portion of the existing multi-family dwelling structures that are not used as livable space shall have no a maximum size requirement.
 2. Detached ADUs detached from existing multi-family dwelling structures:
 - a. New Construction Detached ADU. A detached ADU shall have a minimum floor area of 150 square feet, and shall not exceed 850 square feet, except for an ADU that provides more than one bedroom, which shall not exceed 1,000 square feet.
- D. Height Limits – Multi-Family. The maximum height of a detached new ADU on a multifamily property shall not exceed the following limits:
 1. The height limit for detached ADUs is sixteen (16') feet or eighteen (18') feet if the multifamily dwelling contains more than one story.
 2. For ADUs contained within the portion of existing multi-family dwelling that is not used as livable space, the height will not exceed that of the existing space being converted.
- E. Setbacks – Multi-Family.
 1. New Construction: Detached ADUs on multifamily properties shall comply with the setback requirements set forth in the zoning district in which the ADU is located including any applicable overlay district for with the subject property is located except as provided in this subsection.

Commented [EK9]: Response to HCD - Comment #4

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- a. An ADU shall comply with the front yard setback requirements of the applicable zoning district, except for when an existing structure is converted, maintains a non-conforming setback.

- i. Detached ADUs shall not be subject to composite setback requirements prescribed in CMC 17.10.040.A, if applicable.

- 2. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space: No setback shall be required for conversion ADUs provided the structure maintains an adequate setback required for fire safety and access as determined by the Building Official and/or Fire Marshall.

F. Parking – Multi-Family.

- 1. No parking shall be required for an ADU except for as provided in the Coastal Access Parking Area, described in section 17.ADU.080.Q.
- 2. Except for as required in the Coastal Access Parking Area, if the required parking serving a primary dwelling is demolished for the purpose of establishing an ADU, replacement parking for the primary dwelling(s) shall not be required.
 - a. This provision shall not apply for demolition and/or reconstruction of existing dwellings.
- 3. Development resulting in a loss of off-street parking shall render the site non-conforming, as described in section 17.10.040.F.2.d, if the site does not conform to parking requirements.

- G. Design Review – Multi-Family. All ADUs shall be subject to the provisions outlined in section 17.ADU.060, Design Review.

17.ADU.060 Junior Accessory Dwelling Units.

Junior Accessory Dwelling Units. JADUs shall conform with the following:

- A. A JADU shall be a minimum of 150 square feet not exceed 500 square feet in size and shall contain at least an efficiency kitchen, which includes cooking appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the JADU.
- B. A JADU shall have a separate entrance from the single-family dwelling.
- C. The JADU may, but is not required to, include separate sanitation facilities. If separate sanitation facilities are not provided, the JADU shall share sanitation facilities with the single-family residence. If sanitation facilities are provided as part of the primary dwelling, the JADU shall maintain interior access to the primary dwelling.

Commented [EK10]: PC Comment - At prior workshop, PC gave direction to explore requiring additional parking requirements.

Parking requirements cannot be imposed as (nearly) every site in the city is within ¼ walking mile from a bus stop and therefore is exempt from providing parking.

Parking can still be required to ensure Coastal Access. In conversation with Coastal Commission Staff, this area should be limited to those areas adjacent to the beach.

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1. If a shared sanitation facility is provided with the primary dwelling, the shared sanitation facility shall:

- a. Be in immediate close proximity to JADU;
- b. Be accessible from the JADU without entering a separate room within the primary dwelling (accessible via a communal hallway or corridor) and without exiting to the exterior of the dwelling;
- c. Be counted as part of the square footage of the unit (only the JADU and sanitation facilitation shall be considered in the floor area calculation; the communal corridor or hallway shall not be considered).

- D. Unless the property is owned by a governmental agency, land trust, or housing organization, one of the dwellings on the parcel (either the primary dwelling or JADU) must be the bona fide principal residence of at least one legal owner of the parcel, as evidenced at the time of approval of the JADU by appropriate documents of title and residency.

- E. Prior to issuance of a building permit for a JADU, the owner shall record a covenant in a form prescribed by the city, which shall run with the land and provide for the following. A copy of the recorded covenant shall be filed with the Community Planning and Building Department prior to issuance of a building permit. The covenant shall include the following information:

1. A prohibition on the sale of the JADU separate from the sale of the single-family residence;
2. A restriction on the size and attributes of the JADU consistent with this section;
3. A prohibition against renting the property for fewer than 30 consecutive calendar days; and
4. A requirement that either the primary residence or the JADU be the owner's bona fide principal residence, unless the owner is a governmental agency, land trust, or housing organization.

- F. Parking is not required for JADUs. However, if an existing attached garage is replaced by a JADU, each removed required parking space must be replaced with an off-street parking space that complies with the requirements of the underlying zoning district.

17.ADU.070 Design Review.

The following shall apply to the design and exterior appearance for all ADUs and JADUs.

- A. Type 1 and Type 2 Units:

- a. The unit(s) shall comply with all applicable Administrative ADU Design Standards adopted by the Planning Commission. The Planning Commission may develop, and from time to time amend, the administrative standards provided the standards set forth for ADUs are objective and the criteria can be evaluated without discretion.

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- b. In the absence of adopted administrative design standards for ADUs, the accessory dwelling shall be constructed with exterior materials that have the same texture and appearance to the primary dwelling, including but not limited to roofing, siding, and windows and doors.

B. Type 3 Units:

- a. The unit(s) shall comply with the adopted Residential Design Guidelines.

17.ADU.080 Accessory Dwelling Units, General.

The following standards and requirements apply to all ADUs and JADUs:

- A. Permit Required. No person shall develop, construct, cause to be rented, or occupy an ADU or JADU on any lot within the city unless a building permit and associated approvals are obtained by the Community Planning and Building Department pursuant to the procedures and standards set forth in this chapter.
 - 1. Prior to building permit issuance, the building official shall find that all local building code requirements have been satisfied, except that the construction of an ADU shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was uninhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.
- B. Certificate of Occupancy. A certificate of occupancy for an ADU or JADU shall not be issued before the issuance of a certificate of occupancy for the primary dwelling.
- C. Site Requirements. The building site is zoned to allow single-family or multifamily dwelling residential use and lot must contain a proposed or existing single-family dwelling, or existing multifamily dwelling. Notwithstanding any provision of this code to the contrary, an ADU shall be a permitted use in any zone where a single-family or multifamily dwelling is permitted.
 - 1. Prohibited Locations.
 - a. The establishment of an ADU or JADU shall not be allowed through any permit or license on any building site where sufficient water to support the ADU or JADU is not available for the site.

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b. The establishment of an ADU or JADU shall not be permitted on any portion of a building site not considered as part of the "buildable area" of a site, as defined in CMC 17.70.020.

c. The establishment of an ADU or JADU shall not be allowed through any permit or license on any building site located within the Very High Fire Hazard Severity Zone (VHFHZ) unless equipped with a fire sprinkler system approved by the Fire Marshall.

Commented [EK11]: Check with Building Official for the correct language/terminology

D. Fire Sprinklers. Notwithstanding any other provision of the Carmel Municipal Code, installation of fire sprinklers in an ADU of any type shall be required only if they are required for the primary dwelling unit. The construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling except as provided below.

1. Fire sprinklers shall be considered "required for the primary dwelling unit" in any of the following circumstances:

a. When fire sprinklers are currently installed in the primary dwelling unit;

b. When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an ADU; or

i. For purposes of this subsection (1)(b), the term "constructed concurrently" shall mean construction of a primary dwelling unit that is performed in reliance on a building permit issued within two (2) years of the date of issuance of a building permit for construction of an ADU.

c. When fire sprinklers will be installed in an existing primary dwelling unit as the result of an addition to the primary dwelling unit which addition triggered a requirement for retroactive installation of fire sprinklers in the primary dwelling unit in accordance with SOG 23-01, Determining Fire Sprinkler Retrofit Requirements, and the Carmel Municipal Code, and the permit application also includes the establishment of an ADU; or

Commented [EK12]: Response to HCD - Comment #23

d. The existing building site is located within the Very High Fire Hazard Severity Zone (VHFHZ) pursuant to CMC 17.ADU.070.C.1.c.

Commented [EK13]: Response to HCD - Comment #23

2. The floor area of an ADU contained within the existing space of a single-family dwelling or accessory structure or multi-family dwelling shall not be considered an "addition" under any provision of the Carmel Municipal Code related to retroactive installation of fire sprinklers in a structure.

E. Deed Restriction. Prior to issuance of a building permit for a ADU, the owner shall record a covenant in a form prescribed by the city, which shall run with the land and provide for the following. A copy of the

Commented [EK14]: PC Comment - Supportive of Deed Restrictions.

PC was also supportive of an owner occupancy requirement, however, AB 976 was passed which eliminated any possibility of imposing an owner occupancy requirement.

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recorded covenant shall be filed with the Community Planning and Building Department prior to issuance of a building permit. The covenant shall include the following information:

1. A prohibition on the sale of the ADU separate from the sale of the single-family residence except as authorized in Gov. Code, §65852.26;
 2. A restriction on the size and attributes of the ADU consistent with this section; and
 3. A prohibition against renting the property for fewer than 30 consecutive calendar days.
- F. Drainage. Permit applications for the creation of a new attached or detached ADU shall comply with the requirements of CMC 15.18, Site Drainage.
- G. Utilities. An ADU may have shared or separate utility services (i.e., an electrical and/or gas meter) from the primary dwelling.
- H. Rental Term. Rental of any unit created pursuant to this chapter shall be for a term of 30 days or more.
- I. No Separate Conveyance. The ADU may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence except as authorized in Gov. Code, §65852.26.
- J. Story Poles. Story poles shall be installed consistent with the city's Story Pole Policy (Resolution 2017-122) for all ADUs that require a Coastal Development Permit where any addition of floor area or building height is proposed.
- K. Transient Rental, Housing Incentive. An ADU created pursuant to this chapter shall not constitute construction of a new rental unit as described in CMC 17.14.040.W.2, Transient Rental, Housing Incentive.
- L. Mills Act. An ADU or JADU proposed on a property subject to a Mills Act Contract must comply with the provisions of the contract, including conformance to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, the United States Secretary of the Interior's Standard for Rehabilitation, the California Historical Building Code, and the city's Historic Preservation Ordinance.
- M. Access.
1. Exterior access. The ADU and/or JADU must have exterior access independent of the main unit.
 2. Inter-accessibility. An attached accessory dwelling unit that exceeds the allowable base floor area for the site shall be an independent dwelling unit with no inter-accessibility,

Commented [EK15]: Alternative recommendation: relocate to building code; Title 15

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interconnectivity, internal circulation, or other means of passage between the primary dwelling and ADU. This provision shall not apply to JADUs which may share circulation into the primary dwelling as described in section 17.ADU.050.C.

Commented [EK16]: PC Comment - interconnect not necessarily an issue provided residence does not exceed floor area limitation.

Response to HCD - Comment #28

N. **Building Separation.** No minimum distance is required between structures. An ADU shall be considered attached to the primary dwelling unit or any other building when there is a common wall, common roof, or a horizontal connection at least thirty (30") inches above grade. Horizontal connections, including but not limiting to, retaining walls and/or decking between an ADU and the primary dwelling unit or any other building that are less than thirty (30") inches above grade are not considered a connection.

1. It is recommended a minimum of three (3') foot wide clear path of travel be maintained between buildings.

Commented [EK17]: Alternative recommendation: Relocate to Building Code

O. **Passageway.** No passageway shall be required in conjunction with the construction of an ADU.

P. **Standards for Accessory Structure Conversions.**

1. If a legally permitted accessory structure is demolished for the purpose of converting the structure to an ADU with the same dimensions, including but not limited to floor area, height, roof pitch, setbacks, the ADU can be rebuilt on the footprint of the existing accessory structure. A structure that is reconstructed beyond any of the existing dimensions of the existing structure shall not be considered a conversion and be subject to the applicable standards for a new detached ADU, except that a 150 square foot addition for ingress and egress may be allowed.
 - a. When a legally permitted existing accessory structure is demolished for the purpose of converting the structure to an ADU, a survey, prepared by a California Licensed Surveyor or Engineer, shall be submitted with the building with the building permit application certifying the following prior to demolition of the subject structure:
 - i. [CRITERIA TBD]
2. **Carport Conversion.** When a carport is converted, an "imaginary wall plane" will be drawn around the exterior of the existing support posts. That wall plane becomes the exterior walls/footprint for the purposes of the conversion. An ADU cannot be expanded beyond that wall plane.
3. **Demolition Permits.** A demolition permit for a detached garage that is to be replaced with an ADU shall be reviewed with the application for the ADU and issued at the same time as the ADU.

Q. **Subordinate Units**

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1. A nonconforming subordinate unit may be converted to a permitted ADU or JADU upon submittal of a building permit application demonstrating the unit meets the requirements outlined in this chapter for either an ADU or JADU, as appropriate, including evidence the unit was originally classified as a subordinate unit. All fees assessed by the city shall be waived for the conversion of a subordinate unit to an ADU or JADU provided there are no other building permits proposed as part of the application.
 - a. The property owner shall remove any covenants or restrictions associated with the subordinate unit as part of the building permit application. If covenants or restrictions are to be removed, said restriction shall be rescinded prior to a certificate of occupancy for the newly established ADU.

R. Non-Conformities.

1. The city shall not deny an application for a permit to create an ADU due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the ADU.
2. A non-conforming detached accessory structure may be re-built or re-constructed in-kind pursuant to 17.ADU.070.T.1. Demolished non-conformities may be re-built or re-established provided the reconstruction is for the benefit of the ADU only, and non-conformities are not expanded.

17.ADU.080 Coastal Resource Protections.

- A. Purpose : The purpose of this title is to harmonize the requirements of Government Code Sections 66310-66342, with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)) of the Public Resources Code as provided in Government Code Section 66329.
- B. Findings:
 1. The entirety of the City of Carmel-by-the-Sea is located within the boundary of the Coastal Zone. The City's Local Coastal Program was certified by the California Coastal Commission in October of 2004. In accordance with Government Code Section 66329, the California Coastal Act of 1976 is neither superseded nor in any way altered or lessened except that a public hearing for Coastal Development Permit applications for ADUs shall not be required.
 2. A Coastal Development Permit is required for all new development within the Coastal Zone. As defined by the Coastal Act, development refers to both "the placement or erection of any solid material or structure" on land as well as any "change[s] in the density or intensity of use of land[.]" (Pub. Res. Code § 30106.)

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3. A Coastal Development Permit (CDP) is the regulatory mechanism by which proposed developments in the coastal zone are brought into compliance with the policies of Chapter 3 of the Coastal Act.
 - a. The policies applicable to the City of Carmel of Chapter 3 of the Coastal Act have been incorporated into the city's certified Local Coastal Program.
4. The City's Land Use Plan describes the associated Land Use Chapters of the Local Coastal Program in the following manner:
 - a. **Land Use and Community Character.** This Chapter of the General Plan covers topics required in the Land Use Element. This heading also includes policies for topics in sections 30244 and 30250 through 30254 of the Coastal Act.
 - i. This Element integrates land use policies with issues of design, aesthetics and historic preservation as part of the Coastal Land Use Plan for the City.
 - b. **Circulation.** This Chapter or Element of the General Plan is one of the seven elements required by California Statutes. Several of the policies in this element also implement provisions of the Coastal Act.
 - i. This element is a required element of the City's General Plan (Government Code Section 65302(b)). Many of the policies in this Element are also part of the Local Coastal Land Use Plan and are noted as such (LUP).
 - c. **Coastal Access and Recreation.** This Chapter includes policies for topics covered in sections 30210 through 30224 of the Coastal Act.
 - i. This Element includes policies to protect and enhance public access to the coast is mandated by the California Coastal Act.
 - d. **Coastal Resource Management.** This Chapter of the General Plan includes policies for topics in sections 30230 through 30243 and 30251 of the Coastal Act.
 - i. This element includes policies for protection of the City's coastal environmental resources including the character of its forest, beach and bluffs, water quality and Environmentally Sensitive Habitat Areas (ESHAs).
5. As described in the city's Land Use Plan, "The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics" (LUP).

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- a. Coastal Act Section 30251 requires *"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting."*
- b. Coastal Act Section 30253 requires: *"New development shall do all of the following:*
 - i. *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
 - ii. *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*
 - iii. *Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.*
 - iv. *Minimize energy consumption and vehicle miles traveled.*
 - v. *Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses."*
- 6. ADUs are permitted on all building sites that allow for single-family and multi-family dwelling and there is no limitation in the total potential number of housing units created through ADUs based on the Coastal Resource Protections described herein or elsewhere in this ordinance.

C. Applicability: All ADUs and JADUs shall comply with the following requirements for the protection of coastal resources, as applicable:

- 1. Views. The incorporated limits of the City of Carmel-by-the-Sea is designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253. Accordingly, a proposed ADU shall:
 - a. Be cited and designed to protect views to and along the ocean and scenic coastal areas;
 - b. Minimize the alteration of natural land forms and work with the topography of the site;
 - c. Be visually compatible with the character of surrounding areas including, but not limited to: the type of forest resources present, the character of the street, the response to local topography and the treatment of open space resources such as setbacks and landscaping, and not presenting excess visual mass or bulk to public view or to adjoining properties.

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2. Overlay Districts. Except as modified by this chapter, the ADU shall conform to all requirements of any applicable overlay district, including but not limited to established height limits, setbacks, environmental reports, described within CMC 17.20, except that no public hearing shall be required for Type 1 and Type 2 ADUs and the duties and powers designated to any board or commission shall be designated to the Director, as applicable, in the review of the ADU. Standard processing procedures shall be followed, as applicable, for Type 3 ADUs.
 - a. Appealable Coastal Development Permits.
3. Historic Resources. An ADU or JADU proposed on a property with a historic resource shall be subject to the provisions outlined in CMC 17.32 except that no public hearing shall be required for Type 1 and Type 2 ADUs and the duties and powers designated to any board or commission shall be designated to the Director, as applicable, in the review of the ADU. Standard processing procedures shall be followed, as applicable for Type 3 ADUs. A Determination of Consistency with the Secretary of the Interior's Standards shall be required for all major and minor alterations, as appropriate.
4. Trees. No tree, as described in CMC 17.48.050.A.1.a or CMC 17.48.050.A.1.b, shall be removed or pruned for the purpose of establishing an ADU except in accordance with CMC 17.48.050.
 - a. Significant trees shall only be removed in accordance with CMC 17.48.070.B.
 - b. If trees are permitted by the City to be removed to facilitate the construction of an ADU that would otherwise preclude the development of an ADU replacement trees shall be provided on-site pursuant to CMC 17.48.080,. Alternative locations may be approved by the city forester, as appropriate.
 - c. All compaction of soils, construction of building walls, or placement of impermeable surfaces shall be setback a minimum of six feet from all trees.
5. Non-Conforming Site Coverage. Within the R-1 Zone District, sites shall comply with the provisions of CMC 17.10.030.C.2, as applicable.
6. Coastal Access Parking Area. Project sites located within the Coastal access parking area, as illustrated in Figure 1, below, shall be required to provide one (1) on-site parking space per ADU in addition to any required parking to the primary dwelling.
 - a. Within the R-1 District, parking may be provided as an uncovered tandem space within the front or side yard setback located on the driveway in front of a garage or carport or elsewhere on the property where parking is allowed by the underlying zoning district.

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- i. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be provided ministerially for the ADU and shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC 12.24.020.A-L are otherwise met.
- b. Within all districts other than the R-1 District, replacement parking shall follow the standards prescribed in CMC 17.38, off-street parking requirements.
- i. Unless expressly specified in the Community Plan, Community Plan Districts shall comply with the provisions of CMC 17.38.

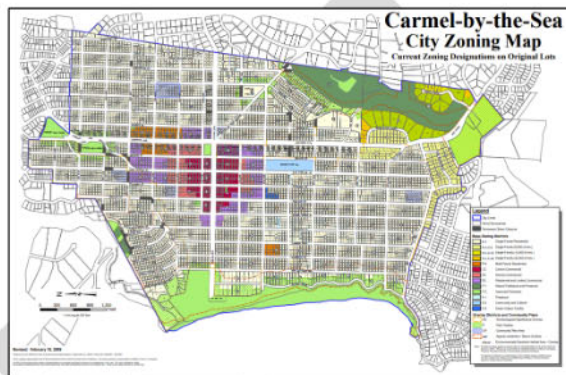


FIGURE 1. Coastal Access Parking Area [Map forthcoming].

- 7. Front Setback. Type 2 and Type 3 ADUs shall comply with the front yard setback requirements of the applicable zoning district including the front setback. New Type 3 ADUs may be established within the front yard setback when the findings for locating a garage/carport established in CMC 17.10.030.A. 1.a, are made in the affirmative through the appropriate CDP process, as applicable.
- 8. Additional Accessory Structures. Except as provided in CMC 17.10.040, Lot Mergers, no more than two accessory structures may be constructed on each building site.
- 9. Building sites with ADUs shall be prohibited from constructing, maintaining and/or building guesthouses or studios.

17.ADU.100 Application and Review Procedures.

- A. Timing

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1. The city shall ministerially approve or disapprove a complete building permit application for an ADU or JADU in compliance with the time periods established by State law. If a Coastal Development Permit is required, the Coastal Development Permit may be processed concurrently with the building permit application for the creation of the ADU/JADU, however, no building permit application shall be deemed complete until any required associated Coastal Development Permit has been approved.

B. Standard of Review

1. The following review procedures shall apply to all ADUs and JADUs:
 - a. **Type 1 Units – Ministerial Review.**
 - i. The following types of units are classified as Type 1 units and are eligible for Type 1 review:
 - a. The conversion of an existing, legally established habitable space to a ADU and/or JADU within an existing primary dwelling, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure.
 - ii. Type 1 units located in the Coastal Access Parking Area, located on the site of a Historic Resource, or located within the Beach and Riparian Overlay west of San Antonio Avenue or west of North Carmelo Avenue shall be processed as a Type 2 Application.
 - iii. Type 1 Units shall be exempt from all Coastal Development Permit Requirements and shall be considered ministerially.
 - b. **Type 2 Units – Administrative Review.**
 - i. The following types of units are classified as Type 2 units and are eligible for Type 2 review:
 - a. Attached and detached ADUs which comply with within floor area limits of the site, and/or
 - b. Type 1 units located in the Coastal Access Parking Area, located on the site of a Historic Resource, or located within the Beach and Riparian Overlay, and/or converted from nonhabitable space.
 - c. Any unit not specifically classified as a Type 3 unit.

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- ii. All Type 2 units shall require approval of an Administrative Coastal Development Permit prior to building permit issuance.
- c. Type 3 – Standard Review.
- i. The following types of units are classified as Type 3 units and are subject to Type 3 review:
- a. Any ADU which receives a floor bonus/exemption of up to 800 sf above the allowable floor area for the site for the construction of an ADU, unless converted from existing floor area on the site, and/or
 - b. Any new attached or detached ADU located in the Beach and Riparian Overlay District west of San Antonio Avenue or west of North Carmelo Avenue.
 - c. Any new ADU proposed concurrently, and reliant, on a Track 2 application for a new dwelling, rebuild, or substantial alteration of a primary dwelling.
 - d. Any ADU for which the applicant requests deviation from adopted applicable standards
- ii. All Type 3 units shall require approval of a Coastal Development Permit as follows:
- a. Administrative Review. New attached and detached units additions that do not increase existing floor area of the building site on which they are located by more than 10 percent or do not increase the height of the existing structure by more than 10 percent shall reviewed administratively.
 - b. Standard Review. New attached and detached units additions that increase existing floor area by more than 10 percent or more, or increase the height of the existing structure by 10 percent or more shall reviewed consistent with procedures outlined in CMC 17.58.040.B.
2. Ministerial Review. Applications for ADUs and/or JADUs on a lot with an existing or proposed single-family residence or multifamily dwelling units that conform to the requirements of this section shall be considered as ministerial permits without discretionary review or a hearing, and the City shall approve or deny such applications within 60 calendar days after receiving the completed application. If the permit application to create an ADU, and/or JADU, is submitted with a permit application to create a new single-family dwelling on the lot, the city may delay

Commented [EK18]: Placeholder name

Commented [EK19]: PC Comment - Direction to synchronize review of ADU and primary residence.

Commented [EK20]: CMC 17.52.090.E & F are the thresholds.

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acting on the permit application for the ADU until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the ADU shall still be considered as a ministerial permit without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

3. Coastal Development Permits. For ADUs and JADUs that constitute development and therefore require a Coastal Development Permit: the City shall approve or deny coastal development permit applications within 60 calendar days after receiving the completed application to the extent feasible consistent with section 17.ADU.100.C, below. No building permit application shall be deemed complete until a Coastal Development Permit subject to the provisions of this section has been approved and any applicable appeal period has concluded.
 - a. Note: Most ADUs and JADUs constitute development if they include, for example, new construction of a detached ADU, new construction of an attached ADU, or conversion of an existing, uninhabitable, attached or detached space to a ADU or JADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the "placement or erection of solid material," and the conversion of existing, uninhabitable space would generally constitute a "change in the density or intensity of use." Therefore, these activities would generally constitute development in the coastal zone that requires a CDP.
4. Type 3 Review Request. The applicant may submit an application for a Type 3 review of the ADU that deviates from the standards of this chapter but is otherwise within the discretionary and/or permitting purview of the city.

C. Coastal Development Permits.

1. All ADUs and JADUs classified as Type 1 units shall be exempt from Coastal Development permit requirements.
2. Coastal Commission Appeals Jurisdiction – Beach and Riparian (BR) Overlay.
 - a. Type 2 Applications.
 - i. For Type 2 Coastal Development Permits that are appealable to the California Coastal Commission, as described is the Carmel Municipal Code, the authority to review an application for a Coastal Development Permit is designated to the Director of Community Planning and Building or the Director's designee. Prior to approval of the Coastal Development Permit, the Director shall find that the Coastal Development Permit meets the findings identified in CMC 17.64.010.B, Coastal Development Permits. The Director shall not approve an application for a Coastal Development permit that is not found to be consistent with CMC 17.64.010.B.

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At least 10 days before the City's decision on the application, the City shall provide notice, by first-class mail to all owners of real property, as identified on the last equalized property tax assessment roll within 300 feet. The notice shall include:

- a. The date the application will be acted upon by the City's review authority;
- b. A statement that the development is within the coastal zone;
- c. The date of filing of the application and the name of the applicant;
- d. The number assigned to the application;
- e. A description of the development and its location;
- f. The procedure for which an appeal may be filed with the California Coastal Commission.

The Director's decision shall be final and any appeals of the decisions of the Director or the Director's designee shall be appealed directly to the California Coastal Commission. Actions on applications to construct ADUs within these areas shall be consistent with the provisions of the applicable zone and the policies and development standards of the City of Carmel's certified Local Coastal Program and Chapter 3 of the California Coastal Act.

b. Type 3 Applications.

- i. For Type 3 Coastal Development Permits that are appealable to the California Coastal Commission, the appeal procedures established CMC 17.54 shall apply.

3. Non-Appealable Coastal Development Permits.

a. Type 2 Applications

- i. For Type 2 Applications that are not appealable to the California Coastal Commission and a Coastal Development Permit is required, the authority to review an application for a Coastal Development Permit is designated to the Director of Community Planning and Building or the Director's designee. Prior to approval of the Coastal Development Permit, the Director shall find that the Coastal Development Permit meets the findings identified in CMC 17.64.010.B, Coastal Development Permits. The Director shall not approve an application for a Coastal Development permit that is not found to be consistent with CMC 17.64.010.B.

At least 10 days before the City's decision on the application, the City shall provide notice, by first-class mail to all owners of real property, as identified on

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the last equalized property tax assessment roll within 300 feet. The notice shall include:

- a. The date the application will be acted upon by the City's review authority;
- b. A statement that the development is within the coastal zone;
- c. The date of filing of the application and the name of the applicant;
- d. The number assigned to the application;
- e. A description of the development and its location;
- f. A statement that the decision of the director is final and not appealable.

The decision of the Director, or the Director's designee shall not be appealable and constitute the final action of the City.

b. Type 3 Applications.

- i. For Type 3 Coastal Development Permits that are appealable to the California Coastal Commission, the appeal procedures established CMC 17.54 shall apply.

D. Denials.

If the city denies an application for an ADU or JADU pursuant to section 17.ADU.100.B.1, the Director, within the time period described in 17.ADU.100.B.1, shall return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

17.ADU.0910 Definitions.-

17.ADU.010-020 Purpose and intent

17.ADU.020-030 Applicable Zoning Districts

17.ADU.030-040 Development Standards for ADUs of Single Family Properties.

17.ADU.040-050 Development Standards for ADUs of Multi-Family Properties.

17.ADU.050-060 Junior Accessory Dwelling Units

17.ADU.060-070 Design Review.

17.ADU.070-080 Accessory Dwelling Units, General.

17.ADU.100 Coastal Resource Protection

17.ADU.080-100 Application and Review Procedure.

~~17.ADU.090 Definitions-~~

17.ADU.010 Definitions

As used in this chapter, terms are defined as follows. Terms not defined below shall take the definition as otherwise define in Title 17 of the Carmel Municipal Code.

Commented [EK1]: PC Comment - Moved to front of Ordinance

A. **Accessory Dwelling Unit (ADU).** "Accessory Dwelling Unit" or "ADU" means an attached or a detached residential dwelling unit that provides complete independent living facilities and permanent provisions for living, sleeping, eating, cooking, sanitation, and connection to utilities for one or more persons and is located on a lot with a proposed or existing primary residence or multi-family residences. An ADU also includes the following: An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, and a manufactured home, as defined in Section 18007 of the California Health and Safety Code. ADUs do not include mobile homes, tiny homes, or recreational vehicles licensed by the Department of Motor Vehicles (DMV).

1. **Attached.** An "Attached ADU" means an ADU that does not qualify as a conversion ADU and is constructed as a physical expansion (i.e. addition) to the primary dwelling. An attached ADU may be attached to the Single-Family Dwelling Unit by one or more common walls or other means but shares a physical connection. An attached ADU distinct from the definition of a junior ADU.
2. **Detached.** A "Detached ADU" means an ADU that is within an independent structure entirely separate and shares no physical connection to the primary dwelling unit and/or other accessory structures.
3. **Conversion.** A "Conversion ADU" means an ADU that is constructed completely within the existing or proposed space of a single family residence, an existing detached accessory structure, or an existing multi-family structure. Conversion ADUs are located completely within the existing or proposed floor area of the structure in which they are located, except for expansions for ingress and egress as allowed within this chapter.

B. **Accessory structure.** A structure that is accessory and incidental to, and detached from, a dwelling located on the same site.

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- C. **Administrative Review (Administrative; Administratively).** A review which may include discretion or use of personal judgement that does not require consideration or approval at a public hearing.
- D. **Complete independent living facilities.** Permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.
- E. **Coastal access parking area.** The Coastal Access Parking Area is defined as all properties located within the Beach and Riparian (BR) Overlay District located west of the centerline of Carmelo Street and west of the centerline North San Antonio Street, as well as all properties with street frontages located on San Antonio Avenue or North San Antonio Avenue.
1. If a property is not located immediately adjacent to a street frontage (flag lot, easements, etc), the frontage shall be determined by the driveway location of the subject property.
- F. **Coastal Development Permit.** A Coastal Development Permit (CDP) is the regulatory mechanism by which proposed developments in the coastal zone are brought into compliance with the policies of Chapter 3 of the Coastal Act.
1. Note: The policies applicable to the City of Camel of Chapter 3 of the Coastal Act have been incorporated into the city's certified Local Coastal Program.
- G. **Historic Resource.** For purposes of this section, a Historic Resource shall be a property listed, or eligible for listing, on the National Register of Historic Places or the California Register of Historical Resources, listed on the Carmel Inventory or Register of Historic Resources, or located in a designated historic district.
- H. **Junior Accessory Dwelling Unit** (Also known as "Junior ADU" or "JADU"). A unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- I. **Manufactured Home.** A unit as defined by Section 18007 of the California Health and Safety Code, as may be amended.
- J. **Ministerial Review (Ministerially).** A review that does not require discretionary action or review, personal judgement, or a public hearing.
- K. **Passageway.** A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- L. **Primary Dwelling.** A "Primary Dwelling" or "primary residence" means a single-family or multifamily residential dwelling unit that either exists on or is proposed for a lot zoned for any residential or mixed-use zone, either through a permitted use or a conditional use, and is constructed prior to or concurrently to the ADU or JADU. The primary dwelling shall include all attached non-habitable areas, such as attached garages, but does not include detached accessory structures on the same building site.

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1. **Multi-Family Dwelling.** A structure with two or more attached dwellings on a single lot, and any mixed use structure containing commercial floor area and one or more dwelling units. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings, nor are subordinate units, or existing ADUs.

2. **Condominium units** shall be defined as single family or multi-family based on the parcel map that defines the space of the primary dwelling.

M. **Proposed dwelling.** A dwelling that is the subject of a permit application and that meets the requirements for permitting and is subject to a Design Review Application, subject to CMC 17.58.

N. **Sanitation Facilities.** Sanitation facilities means a room containing a toilet, sink, and bathtub or shower. Sanitation facilities may also be referred to as a bathroom or restroom.

O. **Subordinate Units.** The city has previously classified two types of subordinate dwellings:

i. Legal nonconforming units that were established prior to June 5, 1929. These units were legally established and required no permit. These units were originally classified as subordinate units.

ii. Legal nonconforming units that were established prior to April 5, 1988, and registered with the City by December 6, 1994. These units typically were built without City approval but were then legalized and brought to minimum health and safety standards through an amnesty period and registration. These units were originally classified as subordinate units.

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17.ADU.010-020 Purpose, Intent, and Findings.

- A. To enact regulations governing Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) construction in compliance with Section 65852.2 and Section 65852.22 of the Government Code, or any successor statute. The provisions of this article shall be liberally construed in order to accomplish development of ADUs and JADUs. In the event of a conflict between the provisions of this article and any other ordinance of the City of Carmel-by-the-Sea regulating ADUs or JADUs, the provisions of this article shall prevail.
- B. To establish a process for ministerial review and approval of ADUs and JADUs. No local ordinance, policy, or regulation other than this article and regulations referenced therein shall be the basis for the denial or delay of a building permit for an ADU or JADU.
- C. The provisions of this chapter shall only be applicable to the establishment of ADUs and/or JADU (that being the establishment of the dwelling unit). Other improvements made to the site, including but not limited to, improvements to the primary dwelling, site coverage improvements/modifications, decks, patios, landscaping, grading, parking, shall be undertaken in accordance with the applicable regulations and procedures in CMC 17.58 unless expressly authorized in this chapter.

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- D. To provide for additional affordable housing opportunities without a commitment of public funds which are usually necessary to subsidize large-scale affordable housing development projects;
- E. To provide for convenient child care opportunities within residential neighborhoods. For working-age residents with children, ADUs allow family members or other child care providers to reside in close proximity to the household requiring child care. The nearby availability of child care for their children offers working-age residents convenience, and more importantly, may enable them to work and support their families without the burden of commercial child care costs;
- F. To provide for convenient elder care opportunities within residential neighborhoods. ADUs and JADUs enable multi-generational living on a common site. As Carmel's population ages, ADUs and JADUs allow family members or other caregivers to reside in close proximity to those receiving care while affording them the privacy of their own living space. For those receiving care, ADUs and JADUs will enable many to remain in their homes longer than would otherwise be possible without needing to relocate to an assisted living or other facility;

~~1. In a city with few formal street improvements or drainage systems, the "urbanized" forest also serves to convey runoff from the watershed to the beach and Carmel Bay through a variety of natural drainages, swales, and creeks. The forest performs the important functions of absorbing water from the soil, reducing runoff, filtering pollutants, and minimizing erosion. As such, the "urbanized" forest reduces the amount of polluted runoff and in large part, helps the City comply with the National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water permit regulations (LUP).~~

17.ADU.020-030 Applicable Zoning Districts.

- A. An ADU that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The ADU shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
 - 1. *Community Plan and Specific Plan Area.* The provisions of subsection (A), above, shall apply to sites zoned as Community Plan or Specific Plan areas where the approved development plan includes residential uses as a permitted use, including mixed use. In cases where the details of the original development plan are not available, the Director may determine whether a site was intended for residential use as a permitted use by considering the use of any existing structures on the site in addition to the uses of structures and the development pattern of the area immediately surrounding the site.

17.ADU.030-040 Development Standards for ADUs on Single Family Properties.

The following standards apply to ADUs and JADUs ~~developed~~ on all properties within ~~the single family (R-1) all~~ zoning district, ~~or any district that allows single-family dwellings~~ developed with an existing or proposed single family dwelling.

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A. Location – Single Family.

1. Number of ADUs. A maximum of one (1) ADU, and one (1) JADU shall be allowed on a single-family property.

1.a. One (1) additional ADU shall be permitted on a building site when the existing or proposed units are limited to: one (1) conversion ADU, one (1) detached ADU, and one (1) JADU.

a.b. JADUs may be are allowed consistent with section 17.ADU.050060.

2. Location on site. An ADU may be attached to, detached from, or located within the existing or proposed primary dwelling on the same lot building site. An ADU may also be converted from a garage or other existing accessory structure on the same building site as the existing primary dwelling.

B. Floor Area – Single Family.

1. The floor area of an ADU and/or JADU is included in any other floor area limitation in this Title that is applicable to an attached or detached accessory building for the housing type and in the base zone in which the lot is located.

a. Notwithstanding CMC 17.ADU.030.B.1, an 800 square foot floor area allowance may be allowed exclusively for the creation of an attached or detached Type 3 ADU, as described in section 17.ADU.xxx.

2. An ADU which is proposed to exceed floor area as described in subsection (B)(1) shall not be approved, unless the floor area of the existing and/or proposed improvements on site are reduced to comply with the limits for the underlying zoning except otherwise provided in this subsection, (B)(2).

a. Bonus Floor Area Transfer: The basement bonus described in CMC 17.10.030.D.4 may be transferred to the ADU up to an amount that the total above ground floor area of the site (primary dwelling and ADU) does not exceed that of the underlying zone district.

- 3.2. For the purposes of development of other structures on the property, the floor area of an existing ADU shall be counted in the calculation of the property's total lot coverage and floor area ratio.

3. The floor area of an ADU shall not exceed the floor area of an existing or proposed primary dwelling, unless the ADU is being created through the conversion of an existing structure as described in section 17.ADU.030.C (conversion ADUs).

4. Exceptions for attached and detached units: If the existing or proposed primary dwelling is 800 square feet or less, the ADU shall be allowed a maximum of 800 square feet regardless of such condition, as provided in section 17.ADU.030.C.1.a.

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C. Unit Size – Single Family. The standards below provided the maximum and minimum unit sizes for ADUs. Establishment of an ADU within these standards shall require floor area available for establishment of the unit consistent with section 17.ADU.030040.B, above.

1. New Construction Attached ADU. An ADU attached to the primary dwelling shall have a minimum floor area of 150 feet, and shall not exceed 50 percent of the existing floor area of the primary dwelling.

1.a. If the square footage of the primary dwelling does not allow for an attached ADU of at 800 square feet, a maximum allowance of 800 square feet shall be allowed for the unit size of the attached ADU.

1.b. An attached garage shall be included in the square footage of the primary dwelling whether a portion of the garage is converted to an ADU or demolished as part of the establishment of the ADU, or not.

2. New Construction Detached ADU. A detached ADU shall have a minimum floor area of 150 square feet, and shall not exceed 850 square feet, except for an ADU that provides more than one bedroom, which shall not exceed 1,000 square feet.

3. Conversion ADUs. A conversion ADU shall have a minimum floor area of 150 square feet. The maximum floor area of an ADU that converts a portion of a primary dwelling shall be no more than 50% of the existing floor area of the dwelling being converted. An ADU that is created through the conversion of an existing detached accessory structure shall have no size restriction (i.e. the entire detached accessory structure may be converted regardless of the size).

a. For the full conversion of accessory structures, an expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed. The 150 square foot addition shall comply with all setbacks and height limits of the underlying zone district.

D. Height Limits – Single Family. The maximum height of an attached or detached new ADU shall not exceed the following limits:

1. New Construction: Attached and detached ADUs shall comply with the height limits set forth in the zoning district in which the ADU is located. All new attached and detached ADUs shall comply with the plate and ridge heights established in table 17.10-C located in CMC 17.10.030.B.

a. Exceptions. The maximum ridge height for all structures shall be sixteen (16') feet with a twelve (12') plate height in the following instances:

- i. The height of the primary dwelling unit is less than sixteen (16') feet;
- ii. Any portion of a detached ADU is located between a primary dwelling unit and a site's front setback line; or

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iii. Any portion of a detached ADU is located less than four (4') from the side lot line or less than fifteen (15') feet from the rear lot line.

2. For a conversion ADU (without an expansion): the ADU shall be contained completely within the existing structure, and maintain the existing height of the converted structure.

a. An expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed for existing accessory structures. The 150 square foot addition shall match the plate and ridge heights of the existing accessory structure.

E. Setbacks – Single Family.

1. New Construction: Attached and detached ADUs shall comply with the setback requirements set forth in the zoning district in which the ADU is located including any applicable overlay district for with the subject property is located except as provided in this subsection.

~~a. An ADU shall comply with the front yard setback requirements of the applicable zoning district, except for when an existing structure is converted, maintains a non-conforming setback.~~

~~i.a.~~ Detached ADUs shall not be subject to composite setback requirements prescribed in CMC 17.10.030040.A.

2. For a conversion ADU (without an expansion): No setback shall be required for conversion ADUs provided the structure maintains an adequate setback required for fire safety and access as determined by the Building Official and/or Fire Marshall.

a. An expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed for existing accessory structures. The 150 square foot addition shall comply with all minimum setbacks limits described above.

F. Parking – Single Family.

1. No parking shall be required for an ADU except for as provided in the Coastal Access Parking Area, described in section 17.ADU.070080.Q, ~~where on site parking shall be provided for all ADUs.~~

2. Except for as required in the Coastal Access Parking Area, when the required parking serving a primary dwelling is demolished for the purpose of establishing an ADU, replacement parking for the primary dwelling shall not be required.

a. This provision shall not apply for demolition and/or reconstruction of existing dwellings.

b. This provision shall not apply to JADUs, as described in section 17.ADU.050060.F.

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c. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be voluntarily provided as replacement parking for the primary dwelling and approved ~~ministerially-administratively~~ as part of the permit application for the ADU. The parking pad shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC 12.24.020.A-L are otherwise met.

i. Replacement garages or carports voluntarily provided shall be subject to Design Review pursuant to CMC 17.56 and shall be required to comply with applicable floor area and site coverage limitations for the site.

3. Development resulting in a loss of off-street parking shall render the site non-conforming, as described in CMC 17.10.030040.F.2.d, if the site does not conform to parking requirements.

G. Design Review – Single Family. All ADUs shall be subject to the provisions outlined in section 17.ADU.060070, Design Standards.

17.ADU.040-050 Development Standards for ADUs on Multi-Family Properties.

The following standards apply to ADUs and JADUs developed on multi-family residential properties or mixed-used developments at any density:

A. Location – Multi-Family.

1. Number of ADUs. For all existing multi-family or mixed-use developments, ~~both~~ subsections (a) ~~and through (c)~~ below shall apply.

a. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space:

i. The equivalent number of twenty-five (25%) percent of the existing multi-family dwelling units (no less than one (1) unit).

b. ADUs detached from existing or proposed multi-family dwelling structures ~~(The provisions of this subsection shall apply to a newly constructed ADU that is detached from an existing multi-family dwelling structure and all accessory structures including, without limitation, garages and storage areas on the same site):~~

i. Up to two (2) ADUs

ii. For the purpose of this subsection, a detached ADU shall mean an ADU that is detached from the multi-family dwelling, and shares no common connection with a commercial use or occupancy, if cited on a mixed-use property or development.

i.c. JADUs shall not be permitted in multi-family or mixed-use use developments.

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2. Location on site.

a. ADUs may be located within the portion of existing multi-family dwelling structures that are not used as livable space including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

i. In mixed-use buildings, the non-livable space used to create an ADU or ADUs shall be limited to the residential areas of a mixed-use development, and not the areas used for commercial or other activities. The parking and storage areas for these non-residential uses shall also be excluded from potential ADU development.

b. ADUs may be detached from an existing or proposed multi-family dwelling structure and all accessory structures including, without limitation, garages and storage areas on the same site

JADUs:

~~b. One JADU may per primary dwelling shall be permitted within the single-family residential (R-1) zone district provided the unit(s) meets the standards in CMC 17.ADU.050.~~

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B. Floor Area – Multi-Family.

1. The floor area of an ADU is included in any other floor area limitation in this Title that is applicable to a detached accessory building for the housing type and in the base zone in which the lot is located.

~~1.a. Notwithstanding CMC 17.ADU.030.B.1, an 800 square foot floor area allowance may be allowed exclusively for the creation of a detached Type 3 ADU, as described in section 17.ADU.xxx.~~

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~~2. An ADU which is proposed to exceed lot coverage and floor area as described below shall not be approved, unless the size is reduced so that the entire site in total complies with the limits for the underlying zoning district.~~

~~3.2. For purposes of development of other structures on the property, the floor area of an existing ADU shall be counted in the calculation of the property's total lot coverage and floor area ratio.~~

~~3. The floor area of an ADU shall not exceed the floor area of an existing or proposed primary dwelling, unless the ADU is established through the conversion of an existing accessory structure or a portion of the existing primary residence as described in section 17.ADU.040.C.1.~~

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~~4.a. Exceptions for attached and detached units: If the existing or proposed primary dwelling is 800 square feet or less, the ADU shall be allowed a maximum of 800 square feet regardless of such condition, as provided in section 17.ADU.030.C.1.a.~~

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C. Unit Size – Multi-Family. The standards below provide the maximum and minimum unit sizes for ADUs on multifamily properties. Establishment of an ADU within these standards shall require available floor area for establishment of the unit consistent with section 17.ADU.040.B, above.

1. ADUs contained within the ~~portion of enclosed space of an~~ existing multi-family dwelling structures that ~~are is~~ not used as livable space:
 - a. The minimum size of the ADU shall be 150 square feet. The maximum size of an ADU that is a conversion of a portion of the existing multi-family dwelling structures that are not used as livable space shall have no a maximum size requirement.
2. Detached ADUs detached from existing multi-family dwelling structures:
 - a. New Construction Detached ADU. A detached ADU shall have a minimum floor area of 150 square feet, and shall not exceed 850 square feet, except for an ADU that provides more than one bedroom, which shall not exceed 1,000 square feet.

D. Height Limits – Multi-Family. The maximum height of a detached new ADU on a multifamily property shall not exceed the following limits:

1. The height limit for detached ADUs is sixteen (16') feet or eighteen (18') feet if the multifamily dwelling contains more than one story.
2. For ADUs contained within the portion of existing multi-family dwelling that is not used as livable space, the height will not exceed that of the existing space being converted.

E. Setbacks – Multi-Family.

1. New Construction: Detached ADUs on multifamily properties shall comply with the setback requirements set forth in the zoning district in which the ADU is located including any applicable overlay district for with the subject property is located except as provided in this subsection.
 - a. An ADU shall comply with the front yard setback requirements of the applicable zoning district, except for when an existing structure is converted, maintains a non-conforming setback.
 - i. Detached ADUs shall not be subject to composite setback requirements prescribed in CMC 17.10.030040.A, if applicable.
2. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space: No setback shall be required for conversion ADUs provided the structure maintains an adequate setback required for fire safety and access as determined by the Building Official and/or Fire Marshall.

F. Parking – Multi-Family.

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1. No parking shall be required for an ADU except for as provided in the Coastal Access Parking Area, described in section 17.ADU.070080.Q.
2. Except for as required in the Coastal Access Parking Area, if the required parking serving a primary dwelling is demolished for the purpose of establishing an ADU, replacement parking for the primary dwelling(s) shall not be required.
 - a. This provision shall not apply for demolition and/or reconstruction of existing dwellings.
3. Development resulting in a loss of off-street parking shall render the site non-conforming, as described in section 17.10.030040.F.2.d, if the site does not conform to parking requirements.

G. Design Review – Multi-Family. All ADUs shall be subject to the provisions outlined in section 17.ADU.060, Design Review.

17.ADU.050-060 Junior Accessory Dwelling Units.

Junior Accessory Dwelling Units. JADUs shall conform with the following:

- A. A JADU shall be a minimum of 150 square feet not exceed 500 square feet in size and shall contain at least an efficiency kitchen, which includes cooking appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the JADU.
- B. A JADU shall have a separate entrance from the single-family dwelling.
- C. The JADU may, but is not required to, include separate sanitation facilities. If separate sanitation facilities are not provided, the JADU shall share sanitation facilities with the single-family residence. If sanitation facilities are provided as part of the primary dwelling, the JADU shall maintain interior access to the primary dwelling.
 1. If a shared sanitation facility is provided with the primary dwelling, the shared sanitation facility shall:
 - a. Be in immediate close proximity to JADU;
 - b. Be accessible from the JADU without entering a separate room within the primary dwelling (accessible via a communal hallway or corridor) and without exiting to the exterior of the dwelling;
 - c. Be counted as part of the square footage of the unit (only the JADU and sanitation facilitation shall be considered in the floor area calculation; the communal corridor or hallway shall not be considered).
- D. Unless the property is owned by a governmental agency, land trust, or housing organization, one of the dwellings on the parcel (either the primary dwelling or JADU) must be the bona fide principal residence of at least one legal owner of the parcel, as evidenced at the time of approval of the JADU by appropriate documents of title and residency.

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Parking requirements cannot be imposed as (nearly) every site in the city is within ½ walking mile from a bus stop and therefore is exempt from providing parking.

Parking can still be required to ensure Coastal Access. In conversation with Coastal Commission Staff, this area should be limited to those areas adjacent to the beach.

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- E. Prior to issuance of a building permit for a JADU, the owner shall record a covenant in a form prescribed by the city, which shall run with the land and provide for the following. A copy of the recorded covenant shall be filed with the Community Planning and Building Department prior to issuance of a building permit. The covenant shall include the following information:
1. A prohibition on the sale of the JADU separate from the sale of the single-family residence;
 2. A restriction on the size and attributes of the JADU consistent with this section;
 3. A prohibition against renting the property for fewer than 30 consecutive calendar days; and
 4. A requirement that either the primary residence or the JADU be the owner's bona fide principal residence, unless the owner is a governmental agency, land trust, or housing organization.
- F. Parking is not required for JADUs. However, if an existing attached garage is replaced by a JADU, each removed required parking space must be replaced with an off-street parking space that complies with the requirements of the underlying zoning district.

17.ADU.060-070 Design Review.

The following shall apply to the design and exterior appearance ~~of for all ADUs and JAUDs~~ADUs.

A. Type 1 and Type 2 Units:

~~A.a. ADUs-~~The unit(s) shall comply with all applicable Administrative ADU Design Standards adopted by the Planning Commission. The Planning Commission may develop, and from time to time amend, the administrative standards provided the standards set forth for ADUs are objective and the criteria can be evaluated without discretion.

~~b.~~ In the absence of adopted administrative design standards for ADUs, the accessory dwelling shall be constructed with exterior materials that have the same texture and appearance to the primary dwelling, including but not limited to roofing, siding, and windows and doors.

B. Type 3 Units:

~~B.a.~~The unit(s) shall comply with the adopted Residential Design Guidelines.

17.ADU.070-080 Accessory Dwelling Units, General.

The following standards and requirements apply to all ADUs and JADUs:

- A. Permit Required. No person shall develop, construct, cause to be rented, or occupy an ADU or JADU on any lot within the city unless a building permit and associated approvals are obtained by the Community Planning and Building Department pursuant to the procedures and standards set forth in this chapter.

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1. Prior to building permit issuance, the building official shall find that all local building code requirements have been satisfied, except that the construction of an ADU shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was uninhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.
- B. Certificate of Occupancy. A certificate of occupancy for an ADU or JADU shall not be issued before the issuance of a certificate of occupancy for the primary dwelling, ~~if constructed concurrently.~~
- C. Site Requirements. The building site is zoned to allow single-family or multifamily dwelling residential use and lot must contain a proposed or existing single-family dwelling, or existing multifamily dwelling. Notwithstanding any provision of this code to the contrary, an ADU shall be a permitted use in any zone where a single-family or multifamily dwelling is permitted.

1. Prohibited Locations.

- a. The establishment of an ADU or JADU shall not be allowed through any permit or license on any building site where sufficient water to support the ADU or JADU is not available for the site.

- ~~b.~~ The establishment of an ADU or JADU shall not be permitted on any portion of a building site not considered as part of the "buildable area" of a site, as defined in CMC 17.70.020.

- ~~b.c.~~ The establishment of an ADU or JADU shall not be allowed through any permit or license on any building site located within the Very High Fire Hazard Severity Zone (VHFHZ) unless equipped with a fire sprinkler system approved by the Fire Marshall.

~~D.A. Trees. No tree, as described in CMC 17.48.050.A.1.a or CMC 17.48.050.A.1.b, shall be removed or pruned for the purpose of establishing an ADU except in accordance with CMC 17.48.050.~~

- ~~1. Significant trees shall only be removed in accordance with CMC 17.48.070.D.~~

- ~~2.1. If trees are permitted by the City to be removed to facilitate the construction of an ADU that would otherwise preclude the development of an ADU replacement trees shall be provided on-site pursuant to CMC 17.48.080, or payment into the city's tree in lieu fund, as adopted by Resolution by City Council, for each tree removed. Alternative locations may be approved by the city forester, as appropriate.~~

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~~3.1. All compaction of soils, construction of building walls, or placement of impermeable surfaces shall be setback a minimum of six feet from all trees.~~

~~E.D.~~ Fire Sprinklers. Notwithstanding any other provision of the Carmel Municipal Code, installation of fire sprinklers in an ADU of any type shall be required only if they are required for the primary dwelling unit. The construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling except as provided below.

1. Fire sprinklers shall be considered "required for the primary dwelling unit" in any of the following circumstances:

a. When fire sprinklers are currently installed in the primary dwelling unit;

b. When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an ADU; or

b.i. For purposes of this subsection (1)(b), the term "constructed concurrently" shall mean construction of a primary dwelling unit that is performed in reliance on a building permit issued within two (2) years of the date of issuance of a building permit for construction of an ADU.

c. When fire sprinklers will be installed in an existing primary dwelling unit as the result of an addition to the primary dwelling unit, including an addition for the purpose of establishing an ADU, which addition triggered a requirement for retroactive installation of fire sprinklers in the primary dwelling unit in accordance with SOG 23-01, Determining Fire Sprinkler Retrofit Requirements, and the Carmel Municipal Code, and the permit application also includes the establishment of an ADU; or,

d. The existing building site is located within the Very High Fire Hazard Severity Zone (VHFHZ) pursuant to CMC 17.ADU.070.C.1.c.

2. For purposes of this subsection (a)(ii), the term "constructed concurrently" shall mean construction of a primary dwelling unit that is performed in reliance on a building permit issued within two (2) years of the date of issuance of a building permit for construction of an ADU.

~~3.2.~~ The floor area of an ADU contained within the existing space of a single-family dwelling or accessory structure or multi-family dwelling shall not be considered an "addition" under any provision of the Carmel Municipal Code related to retroactive installation of fire sprinklers in a structure.

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E. Deed Restriction. Prior to issuance of a building permit for a ADU, the owner shall record a covenant in a form prescribed by the city, which shall run with the land and provide for the following. A copy of the recorded covenant shall be filed with the Community Planning and Building Department prior to issuance of a building permit. The covenant shall include the following information:

1. A prohibition on the sale of the ADU separate from the sale of the single-family residence except as authorized in Gov. Code, §65852.26;
2. A restriction on the size and attributes of the ADU consistent with this section; and
3. A prohibition against renting the property for fewer than 30 consecutive calendar days.

F. Drainage. Permit applications for the creation of a new attached or detached ADU shall comply with the requirements of CMC 15.18, Site Drainage.

G. Utilities. An ADU may have shared or separate utility services (i.e., an electrical and/or gas meter) from the primary dwelling.

H. Rental Term. Rental of any unit created pursuant to this chapter shall be for a term of 30 days or more.

I. No Separate Conveyance. The ADU may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence except as authorized in Gov. Code, §65852.26.

J. Story Poles. Story poles shall be installed consistent with the city's Story Pole Policy (Resolution 2017-122) for all ADUs that require a Coastal Development Permit where any addition of floor area or building height is proposed.

K. Transient Rental, Housing Incentive. An ADU created pursuant to this chapter shall not constitute construction of a new rental unit as described in CMC 17.14.040.W.2, Transient Rental, Housing Incentive.

~~L.A. Overlay Districts. Except as modified by this chapter, the ADU shall conform to all requirements of any applicable overlay district, described within CMC 17.20, except that no public hearing shall be required. The duties and powers designated to any board or commission shall be designated to the Director, as applicable, in the review of the ADU.~~

~~M.A. Historic Resources. An ADU or JADU proposed on a property with a historic resource shall be subject to the provisions outlined in CMC 17.32 except that no public hearing shall be required. A Determination of Consistency with the Secretary of the Interior's Standards shall be required for all major and minor alterations, as appropriate.~~

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PC was also supportive of an owner occupancy requirement, however, AB 976 was passed which eliminated any possibility of imposing an owner occupancy requirement.

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~~N.~~ Mills Act. An ADU or JADU proposed on a property subject to a Mills Act Contract must comply with the provisions of the contract, including conformance to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, the United States Secretary of the Interior's Standard for Rehabilitation, the California Historical Building Code, and the city's Historic Preservation Ordinance.

~~O.~~ Non-Conforming Site Coverage. Within the R-1 Zone District, sites shall comply with the provisions of CMC 17.10.030.C.2, as applicable.

~~L.~~
~~P.M.~~ Access.

1. Exterior access. The ADU and/or JADU must have exterior access independent of the main unit.
2. Inter-accessibility. ~~Any An attached~~ accessory dwelling ~~until unit~~ that results in the total floor area on the site exceeding the allowable floor area for the site is attached to, or located within, a single family dwelling shall be an fully self contained independent dwelling unit with no inter-accessibility, interconnectivity, internal circulation, or other means of passage between the primary dwelling and ADU. This provision shall not apply to sites also established with a JADUs whichfor which the JADU may share circulation into the primary dwelling as described in section 17.ADU.050.C.

~~Q.A.~~ Coastal Access Parking Area. Project sites located within the Coastal access parking area, as illustrated in Figure 1, below, shall be required to provide one (1) on-site parking space per ADU in addition to any required parking to the primary dwelling.

~~1.~~ Within the R-1 District, parking may be provided as an uncovered tandem space within the front or side yard setback located on the driveway in front of a garage or carport or elsewhere on the property where parking is allowed by the underlying zoning district.

~~a.~~ An 8'6" x 16' parking pad constructed from permeable or semi-permeable materials may be provided ministerially for the ADU and shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC 12.24.020.A-L are otherwise met.

~~2.~~ Within all districts other than the R-1 District, replacement parking shall follow the standards prescribed in CMC 17.38, off-street parking requirements.

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Response to HCD - Comment #28

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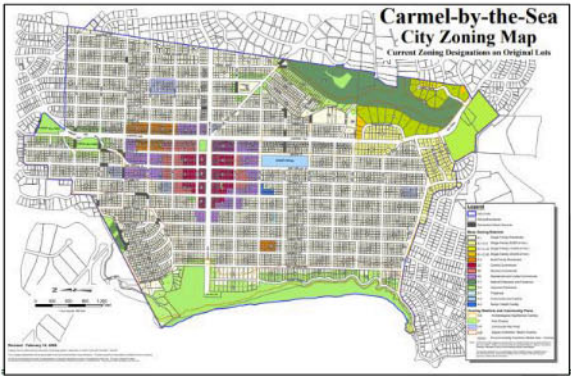
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~~a. Unless specified in the Community Plan, Community Plan Districts shall comply with the provisions of CMC 17.38.~~

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~~FIGURE 1. Coastal Access Parking Area [Map forthcoming].~~

~~R.N.~~ Building Separation. No minimum distance is required between structures. An ADU shall be considered attached to the primary dwelling unit or any other building when there is a common wall, common roof, or a horizontal connection at least thirty (30") inches above grade. Horizontal connections, including but not limiting to, retaining walls and/or decking between an ADU and the primary dwelling unit or any other building that are less than thirty (30") inches above grade are not considered a connection.

- ~~1. It is recommended a minimum of three (3') foot wide clear path of travel be maintained between buildings.~~

Commented [EK17]: Alternative recommendation:
Relocate to Building Code

~~S.O.~~ Passageway. No passageway shall be required in conjunction with the construction of an ADU.

~~T.P.~~ Standards for Accessory Structure Conversions.

1. If a legally permitted accessory structure is demolished for the purpose of converting the structure to an ADU with the same dimensions, including but not limited to floor area, height, roof pitch, setbacks, the ADU can be rebuilt on the footprint of the existing accessory structure. A structure that is reconstructed beyond any of the existing dimensions of the existing structure shall not be considered a conversion and be subject to the applicable standards for a new detached ADU, except that a 150 square foot addition for ingress and egress may be allowed.

- a. When a legally permitted existing accessory structure is demolished for the purpose of converting the structure to an ADU, a survey, prepared by a California Licensed Surveyor or Engineer, shall be submitted with the building with the building permit application certifying the following prior to demolition of the subject structure:

- i. [CRITERIA TBD]

2. Carport Conversion. When a carport is converted, an “imaginary wall plane” will be drawn around the exterior of the existing support posts. That wall plane becomes the exterior walls/footprint for the purposes of the conversion. An ADU cannot be expanded beyond that wall plane.
3. Demolition Permits. A demolition permit for a detached garage that is to be replaced with an ADU shall be reviewed with the application for the ADU and issued at the same time as the ADU.

U.Q. Subordinate Units

1. A nonconforming subordinate unit may be converted to a permitted ADU or JADU upon submittal of a building permit application demonstrating the unit meets the requirements outlined in this chapter for either an ADU or JADU, as appropriate, including evidence the unit was originally classified as a subordinate unit. All fees assessed by the city shall be waived for the conversion of a subordinate unit to an ADU or JADU provided there are no other building permits proposed as part of the application.
 - a. The property owner shall remove any covenants or restrictions associated with the subordinate unit as part of the building permit application. If covenants or restrictions are to be removed, said restriction shall be rescinded prior to a certificate of occupancy for the newly established ADU.

V.R. Non-Conformities.

1. The city shall not deny an application for a permit to create an ADU due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the ADU.
2. A non-conforming detached accessory structure may be re-built or re-constructed in-kind pursuant to 17.ADU.070.T.1. Demolished non-conformities may be re-built or re-established provided the reconstruction is for the benefit of the ADU only, and non-conformities are not expanded.

17.ADU.080 Coastal Resource Protections.

A. Purpose : The purpose of this title is to harmonize the requirements of Government Code Sections 66310-66342, with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code as provided in Government Code Section 66329.

B. Findings:

1. The entirety of the City of Carmel-by-the-Sea is located within the boundary of the Coastal Zone. The City's Local Coastal Program was certified by the California Coastal Commission in October of 2004. In accordance with Government Code Section ~~65852.2~~(66329), the California Coastal Act of 1976 is neither superseded nor in any way altered or lessened except that a public hearing for Coastal Development Permit applications for ADUs shall not be required.

2. A Coastal Development Permit is required for all new development within the Coastal Zone. As defined by the Coastal Act, development refers to both "the placement or erection of any solid material or structure" on land as well as any "change[s] in the density or intensity of use of land[.]" (Pub. Res. Code § 30106.)

3. A Coastal Development Permit (CDP) is the regulatory mechanism by which proposed developments in the coastal zone are brought into compliance with the policies of Chapter 3 of the Coastal Act.

a. The policies applicable to the City of Camel of Chapter 3 of the Coastal Act have been incorporated into the city's certified Local Coastal Program.

4. The City's Land Use Plan describes the associated Land Use Chapters of the Local Coastal Program in the following manner:

a. Land Use and Community Character. This Chapter of the General Plan covers topics required in the Land Use Element. This heading also includes policies for topics in sections 30244 and 30250 through 30254 of the Coastal Act.

i. This Element integrates land use policies with issues of design, aesthetics and historic preservation as part of the Coastal Land Use Plan for the City.

b. Circulation. This Chapter or Element of the General Plan is one of the seven elements required by California Statutes. Several of the policies in this element also implement provisions of the Coastal Act.

i. This element is a required element of the City's General Plan (Government Code Section 65302(b)). Many of the policies in this Element are also part of the Local Coastal Land Use Plan and are noted as such (LUP).

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c. **Coastal Access and Recreation.** This Chapter includes policies for topics covered in sections 30210 through 30224 of the Coastal Act.

i. This Element includes policies to protect and enhance public access to the coast is mandated by the California Coastal Act.

d. **Coastal Resource Management.** This Chapter of the General Plan includes policies for topics in sections 30230 through 30243 and 30251 of the Coastal Act.

A.i. This element includes policies for protection of the City's coastal environmental resources including the character of its forest, beach and bluffs, water quality and Environmentally Sensitive Habitat Areas (ESHAs).

5. As described in the city's Land Use Plan, "The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics" (LUP).

a. Coastal Act Section 30251 requires: "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting."

b. Coastal Act Section 30253 requires: "New development shall do all of the following:

- i. Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- ii. Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- iii. Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.
- iv. Minimize energy consumption and vehicle miles traveled.
- v. Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses."

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6. ADUs are permitted on all building sites that allow for single-family and multi-family dwelling and there is no limitation in the total potential number of housing units created through ADUs based on the Coastal Resource Protections described herein or elsewhere in this ordinance.

1.

B. Carmel Bay is considered an Area of Special Biological Significance (ASBS). The City has an important role to play in assuring that new development in the incorporated City limits does not contribute to water quality impacts from storm water or drainage discharges into the bay. (LUP)

C. Applicability: All ADUs and JADUs shall comply with the following requirements for the protection of coastal resources, as applicable:

1. Coastal Resource Protection. The incorporated limits of the City of Carmel-by-the-Sea is designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253. Accordingly, development of an ADU and/or JADU shall:

- a. Be cited and designed to protect views to and along the ocean and scenic coastal areas;
- b. Minimize the alteration of natural land forms and work with the topography of the site;
- c. Be visually compatible with the character of surrounding areas including, but not limited to: the type of forest resources present, the character of the street, the response to local topography and the treatment of open space resources such as setbacks and landscaping, and not presenting excess visual mass or bulk to public view or to adjoining properties;
- d. Be subordinate to the character of its setting;
- e. where feasible, restore and enhance visual quality in visually degraded areas;
- f. Minimize risks to life and property in areas of high geologic, flood, and fire hazard;
- g. Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs;
- h. Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development;
- i. Minimize energy consumption and vehicle miles traveled.
- j. Protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

2. Overlay Districts. Except as modified by this chapter, the ADU shall conform to all requirements of any applicable overlay district, including but not limited to established height limits, setbacks, required environmental reports, described within CMC 17.20, except that no public hearing shall be required for Type 1 and Type 2 ADUs and: The duties and powers designated to any board or commission shall be designated to the Director, as applicable, in the review of the ADU.

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Standard processing procedures as outlined in the Local Coastal Program shall be followed, as applicable, for Type 3 ADUs.

3. Historic Resources.

a. All building sites shall be subject to the city's Historic Preservation Ordinance, CMC 17.32, except as provided in subsection (b) of this section.

b. An ADU or JADU proposed on a property with a historic resource shall be subject to the provisions outlined in CMC 17.32 except that no public hearing shall be required for Type 1 and Type 2 ADUs and the duties and powers designated to any board or commission shall be designated to the Director, as applicable, in the review of the ADU. Standard processing procedures shall be followed, as applicable for Type 3 ADUs. A Determination of Consistency with the Secretary of the Interior's Standards shall be required for all major and minor alterations, as appropriate.

4. Trees. No tree, as described in CMC 17.48.050.A.1.a or CMC 17.48.050.A.1.b, shall be removed or pruned for the purpose of establishing an ADU except in accordance with CMC 17.48.050.

a. Significant trees shall only be removed in accordance with CMC 17.48.070.B.

b. If trees are permitted by the City to be removed to facilitate the construction of an ADU that would otherwise preclude the development of an ADU replacement trees shall be provided on-site pursuant to CMC 17.48.080, or payment into the city's tree in-lieu fund, as adopted by Resolution by City Council, for each tree removed. Alternative locations may be approved by the city forester, as appropriate.

c. All compaction of soils, construction of building walls, or placement of impermeable surfaces shall be setback a minimum of six feet from all trees.

5. Non-Conforming Site Coverage. Within the R-1 Zone District, sites shall comply with the provisions of CMC 17.10.030.C.2, as applicable.

6. Coastal Access Parking Area. Project sites located within the Coastal access parking area, as illustrated in Figure 1, below, shall be required to provide one (1) on-site parking space per ADU in addition to any required parking to the primary dwelling.

a. Within the R-1 District, parking may be provided as an uncovered tandem space within the front or side yard setback located on the driveway in front of a garage or carport or elsewhere on the property where parking is allowed by the underlying zoning district.

i. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be provided ministerially for the ADU and shall be exempted from

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any floor area and site coverage requirements provided the standards for driveways outlined in CMC 12.24.020.A-L are otherwise met.

b. Within all districts other than the R-1 District, replacement parking shall follow the standards prescribed in CMC 17.38, off-street parking requirements.

i. Unless expressly specified in the Community Plan, Community Plan Districts shall comply with the provisions of CMC 17.38.

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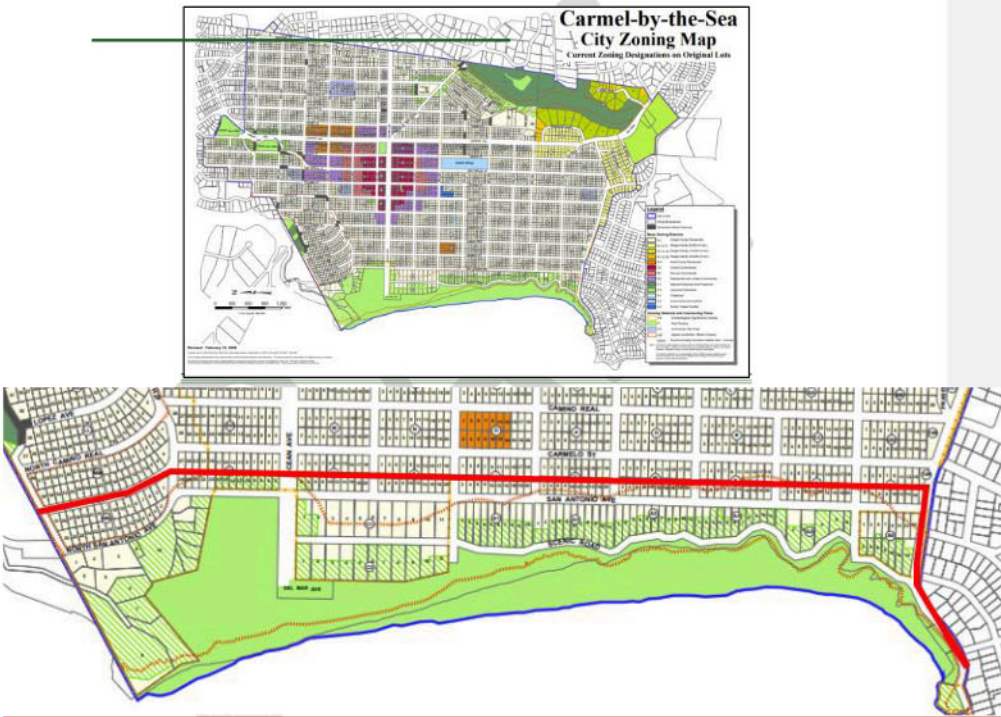


FIGURE 1. Coastal Access Parking Area [Map forthcoming].

7. Front Setback. Type 2 and Type 3 ADUs shall comply with the front yard setback requirements of the applicable zoning district including the front setback. New Type 3 ADUs may be established within the front yard setback when the analogous findings for locating a garage/carport established in CMC 17.10.030.A.1.a, are made in the affirmative through the appropriate review process, as applicable.

8. Additional Accessory Structures. Except as provided in CMC 17.10.040, Lot Mergers, no more than two accessory structures may be constructed or maintained on any building site.

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9. Building sites with ADUs shall be prohibited from constructing, maintaining and/or building guesthouses or studios.

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17.ADU.080-100 Application and Review Procedures.

A. Timing

1. The city shall ministerially approve or disapprove a complete building permit application for an ADU or JADU in compliance with the time periods established by State law. If a Coastal Development Permit is required, the Coastal Development Permit may be processed concurrently with the building permit application for the creation of the ADU/JADU, however, no building permit application shall be deemed complete until any required associated Coastal Development Permit has been approved.

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B. Standard of Review

1. The following review procedures shall apply to all ADUs and JADUs:

a. Type 1 Units – Ministerial Review.

- i. The following types of units are classified as Type 1 units and are eligible for Type 1 review:

- a. The conversion of an existing, legally established habitable space to a ADU and/or JADU within an existing primary dwelling, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure.

- i. Type 1 units, described in subsection (i)(a) above, located in the Coastal Access Parking Area, located on the site of a Historic Resource, or located within the Beach and Riparian Overlay west of San Antonio Avenue or west of North Carmelo Avenue shall be processed as a Type 2 Application.

- ii. Type 1 Units shall be exempt from all Coastal Development Permit Requirements and shall be considered ministerially.

b. Type 2 Units – Administrative Review.

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- i. The following types of units are classified as Type 2 units and are eligible for Type 2 review:
- a. Attached and detached ADUs which comply with within floor area limits of the site, and/or
 - b. Type 1 units located in the Coastal Access Parking Area, located on the site of a Historic Resource, or located within the Beach and Riparian Overlay, and/or
 - c. Units converted from nonhabitable space completely within the enclosing exterior walls of the structure from which they are converted, and/or
 - d. Any unit not specifically classified as a Type 3 unit.
- ii. All Type 2 units shall require approval of an Administrative Coastal Development Permit prior to building permit issuance.
- c. Type 3 – ~~Standard~~ Review.
- i. The following types of units are classified as Type 3 units and are subject to Type 3 review:
- a. Any ADU which receives a floor bonus/exemption of up to 800 sf above the allowable floor area for the site for the construction of an ADU, and/or
 - b. Any new attached or detached ADU located in the Beach and Riparian Overlay District west of San Antonio Avenue or west of North Carmelo Avenue.
 - c. Any new ADU proposed concurrently, and reliant, on ~~awith a new Track~~ 2 application for a new dwelling, rebuild, or substantial alteration of a primary dwelling.
 - d. Any ADU for which the applicant requests deviation from adopted applicable standards
- ii. All Type 3 units shall require approval of ~~an~~ a Coastal Development Permit as follows:

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a. Administrative Review. New attached and detached units additions that do not increase existing floor area of the building site on which they are located by more than 10 percent or do not increase the height of the existing structure by more than 10 percent shall reviewed administratively.

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b. Standard Review. New attached and detached units additions that increase existing floor area by more than 10 percent or more, or increase the height of the existing structure by 10 percent or more shall reviewed consistent with procedures outlined in CMC 17.58.040.B.

B.—

1.2. Ministerial Review. ~~Except for when a Coastal Development Permit is required, a~~ Applications for ADUs ~~and/or JADUs~~ on a lot with an existing ~~or proposed~~ single-family residence or multifamily dwelling units that conform to the requirements of this section shall be considered as ministerial permits without discretionary review or a hearing, and the City shall approve or deny such applications within 60 calendar days after receiving the completed application. If the permit application to create an ADU, and/or JADU, is submitted with a permit application to create a new single-family dwelling on the lot, the city may delay acting on the permit application for the ADU until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the ADU shall still be considered as a ministerial permit without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

2.3. Coastal Development Permits. For ADUs and JADUs that constitute development and therefore require a Coastal Development Permit: the City shall approve or deny coastal development permit applications within 60 calendar days after receiving the completed application to the extent feasible consistent with section 17.ADU.080100.C, below. No building permit application shall be deemed complete until a Coastal Development Permit subject to the provisions of this section has been approved and any applicable appeal period has concluded.

~~Readers~~ Note: Most ADUs and JADUs constitute development if they include, for example, new construction of a detached ADU, new construction of an attached ADU ~~or JADU~~, or conversion of an existing, uninhabitable, attached or detached space to a ADU or JADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the "placement or erection of solid material," and the conversion of existing, uninhabitable space would generally constitute a "change in the density or intensity of use." Therefore, these activities would generally constitute development in the coastal zone that requires a CDP.

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3. ~~Discretionary-Type 3~~ Review Request. The applicant may submit an application for ~~discretionary~~ a Type 3 review of the ADU that deviates from the ~~ministerial~~ standards of this chapter but is ~~otherwise~~ within the discretionary ~~and/or permitting~~ purview of the city. ~~, or to provide for concurrent review of Coastal Development Permits for the ADU and the primary dwelling when a public hearing is required for the primary dwelling. Examples of this request may include consideration of design features that are otherwise prohibited ministerially but may otherwise be permitted through discretionary review.~~

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- a. ~~When a ministerial review waiver is requested the procedures in CMC 17.56, Design Review, shall be followed.~~
- i. ~~The decision of the reviewing authority may be appealed consistent with CMC 17.54, Appeals.~~
- b. ~~ADUs proposed as part of a discretionary review application shall be considered a permitted use consistent with section 17.ADU.020.~~
- e. ~~The decision of the reviewing authority shall not preclude the ability of an applicant to receive a ministerial permit pursuant to Section 17.ADU.080.B.1 or 17.ADU.B.2 for an ADU that is brought into full compliance with the provisions of this chapter.~~
- d. ~~The city shall not direct applications for the establishment of an ADU into a discretionary review track unless requested by the applicant.~~
- e. ~~No separate fee for a Coastal Development Permit shall be assessed for a Coastal Development permit that is considered concurrently with a primary dwelling.~~

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4.

C. Coastal Development Permits.

1. ~~All ADUs and JADUs classified as Type 1 units shall be exempt from Coastal Development permit requirements.~~

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2. ~~Coastal Commission Appeals Jurisdiction – Beach and Riparian (BR) Overlay.~~

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a. ~~Type 2 Applications.~~

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1-i. ~~For Type 2~~ Coastal Development Permits that are appealable to the California Coastal Commission, as described is the Carmel Municipal Code, the authority to review an application for a Coastal Development Permit is designated to the Director of Community Planning and Building or the Director's designee. Prior to approval of the Coastal Development Permit, the Director shall find that the Coastal Development Permit meets the findings identified in CMC 17.64.010.B, Coastal Development Permits. The Director shall not approve an application for

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a Coastal Development permit that is not found to be consistent with CMC 17.64.010.B.

At least 10 days before the City’s decision on the application, the City shall provide notice, by first-class mail to all owners of real property, as identified on the last equalized property tax assessment roll within 300 feet. The notice shall include:

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- a. The date the application will be acted upon by the City’s review authority;
- b. A statement that the development is within the coastal zone;
- c. The date of filing of the application and the name of the applicant;
- d. The number assigned to the application;
- e. A description of the development and its location;
- f. The procedure for which an appeal may be filed with the California Coastal Commission.

The Director’s decision shall be final and any appeals of the decisions of the Director or the Director’s designee shall be appealed directly to the California Coastal Commission. Actions on applications to construct ADUs within these areas shall be consistent with the provisions of the applicable zone and the policies and development standards of the City of Carmel’s certified Local Coastal Program and Chapter 3 of the California Coastal Act.

~~a. Exception: If a waiver is requested by the applicant pursuant to section 17.ADU.080.C.1.a, the proposed Coastal Development Permit for the ADU shall also be reviewed by the decision making body designated in CMC 17.56. If an exception is requested pursuant to section 17.ADU.080.C.1.a, any appeal further appeal made shall be in accordance with CMC 17.54.~~

b. Type 3 Applications.

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- i. For Type 3 Coastal Development Permits that are appealable to the California Coastal Commission, the appeal procedures established CMC 17.54 shall apply.

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3. Non-Appealable Coastal Development Permits.

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a. Type 2 Applications

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- ~~2.i. When a proposed ADU or JADU is~~For Type 2 Applications that are not appealable to the California Coastal Commission and a Coastal Development Permit is required, the authority to review an application for a Coastal Development Permit is designated to the Director of Community Planning and Building or the Director’s designee. Prior to approval of the Coastal

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Development Permit, the Director shall find that the Coastal Development Permit meets the findings identified in CMC 17.64.010.B, Coastal Development Permits. The Director shall not approve an application for a Coastal Development permit that is not found to be consistent with CMC 17.64.010.B.

At least 10 days before the City's decision on the application, the City shall provide notice, by first-class mail to all owners of real property, as identified on the last equalized property tax assessment roll within 300 feet. The notice shall include:

- a. The date the application will be acted upon by the City's review authority;
- b. A statement that the development is within the coastal zone;
- c. The date of filing of the application and the name of the applicant;
- d. The number assigned to the application;
- e. A description of the development and its location;
- f. A statement that the decision of the director is final and not appealable.

The decision of the Director, or the Director's designee shall not be appealable and constitute the final action of the City.

b. Type 3 Applications.

i. For Type 3 Coastal Development Permits that are appealable to the California Coastal Commission, the appeal procedures established CMC 17.54 shall apply.

- a. Exception: If a waiver is requested by the applicant pursuant to section 17.ADU.080.C.1.a, the proposed Coastal Development Permit for the ADU shall also be reviewed by the decision-making body designated in CMC 17.56. If an exception is requested pursuant to section 17.ADU.080.C.1.a, any appeal further appeal made shall be in accordance with CMC 17.54.

D. Denials.

1. If the city denies an application for an ADU or JADU pursuant to section 17.ADU.080100.B.1, the permitting agency shall Director, within the time period described in 17.ADU.080100.B.1, shall return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

17.ADU.090-Definitions

As used in this chapter, terms are defined as follows. Terms not defined below shall take the definition as otherwise define in Title 17 of the Carmel Municipal Code.

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~~A. **Accessory Dwelling Unit (ADU).** "Accessory Dwelling Unit" or "ADU" means an attached or a detached residential dwelling unit that provides complete independent living facilities and permanent provisions for living, sleeping, eating, cooking, sanitation, and connection to utilities for one or more persons and is located on a lot with a proposed or existing primary residence or multi-family residences. An ADU also includes the following: An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, and a manufactured home, as defined in Section 18007 of the California Health and Safety Code. ADUs do not include mobile homes, tiny homes, or recreational vehicles licensed by the Department of Motor Vehicles (DMV).~~

~~1. **Attached.** An "Attached ADU" means an ADU that does not qualify as a conversion ADU and is constructed as a physical expansion (i.e., addition) to the primary dwelling. An attached ADU may be attached to the Single-Family Dwelling Unit by one or more common walls or other means but shares a physical connection. An attached ADU distinct from the definition of a junior ADU.~~

~~2. **Detached.** A "Detached ADU" means an ADU that is within an independent structure entirely separate and shares no physical connection to the primary dwelling unit and/or other accessory structures.~~

~~3. **Conversion.** A "Conversion ADU" means an ADU that is constructed completely within the existing or proposed space of a single family residence, an existing detached accessory structure, or an existing multi-family structure. Conversion ADUs are located completely within the existing or proposed floor area of the structure in which they are located, except for expansions for ingress and egress as allowed within this chapter.~~

~~— **Accessory structure.** A structure that is accessory and incidental to, and detached from, a dwelling located on the same site.~~

- ~~B. **Administrative Review (Administratively).** A review which may include discretion or use of personal judgement that does not require consideration or approval at a public hearing and is reviewed administratively by staff.~~
- ~~C. **Complete independent living facilities.** Permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.~~
- ~~D. **Coastal access parking area.** The Coastal Access Parking Area is defined as all properties located within the Beach and Riparian (BR) Overlay District located west of the centerline of Carmelo Street and west of the centerline North San Antonio Street, as well as all properties with street frontages located on San Antonio Avenue or North San Antonio Avenue.~~
- ~~1. If a property is not located immediately adjacent to a street frontage (flag lot, easements, etc), the frontage shall be determined by the driveway location of the subject property.~~
- ~~Coastal Development Permit. A Coastal Development Permit (CDP) is the regulatory mechanism by which proposed developments in the coastal zone are brought into compliance with the policies of Chapter 3 of the Coastal Act.~~
- ~~Note: The policies applicable to the City of Camel of Chapter 3 of the Coastal Act have been incorporated into the city's certified Local Coastal Program.~~
- ~~E. **Efficiency Kitchen.** An efficiency kitchen shall mean a room or portion thereof containing permanent facilities designed and used for food preparation, cooking, eating and dish washing. A kitchen facility includes a sink that facilitates hot and cold water, a refrigerator, small electric kitchen appliances that do not require electrical service greater than 120 volts, an appropriately sized food preparation counter and storage cabinets. A dishwasher may be included as part of an efficiency kitchen, but is not required.~~
- ~~F. **Efficiency Unit.** As defined in Section 17958.1 of the California Health and Safety Code.~~
- ~~G. **Historic Resource.** For purposes of this section, a Historic Resource shall be a property listed, or eligible for listing, on the National Register of Historic Places or the California Register of Historical Resources, listed on the Carmel Inventory or Register of Historic Resources, or located in a designated historic district.~~
- ~~H. **Junior Accessory Dwelling Unit.** (Also known as "Junior ADU" or "JADU") shall have the same meaning as defined in the California Government Code Section 65852.22, as amended from time to time.~~
- ~~I. **Manufactured Home.** A unit as defined by Section 18007 of the California Health and Safety Code, as may be amended.~~
- ~~Ministerial Review (Ministerially) approval. Approval related to a building permit applicationA review that does not require discretionary action or review, personal judgement, or a public hearing.~~

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- J. ~~**Multi-Family Building.** A structure with two or more attached dwellings on a single lot, and any mixed use structure containing commercial floor area and one or more dwelling units. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings, nor are subordinate units, or existing ADUs.~~
- K. ~~**Passageway.** A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.~~
- L. ~~**Primary Dwelling.** A "Primary Dwelling" or "primary residence" means a single-family or multifamily residential dwelling unit that either exists on or is proposed for a lot zoned for any residential or mixed-use zone, either through a permitted use or a conditional use, and is constructed prior to or concurrently to the ADU or JADU. The primary dwelling shall include all attached non-habitable areas, such as attached garages, but does not include detached accessory structures on the same building site.~~
- M. ~~**Proposed dwelling.** A dwelling that is the subject of a permit application and that meets the requirements for permitting and is subject to a Design Review Application, subject to CMC 17.58.~~
- N. ~~**Sanitation Facilities.** Sanitation facilities means a room containing a toilet, sink, and bathtub or shower. Sanitation facilities may also be referred to as a bathroom or restroom.~~
- O. ~~**Subordinate Units.** The city has previously classified two types of subordinate dwellings:~~
- i. ~~Legal nonconforming units that were established prior to June 5, 1929. These units were legally established and required no permit. These units were originally classified as subordinate units.~~
 - ii. ~~Legal nonconforming units that were established prior to April 5, 1988, and registered with the City by December 6, 1994. These units typically were built without City approval but were then legalized and brought to minimum health and safety standards through an amnesty period and registration. These units were originally classified as subordinate units.~~

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**COMMUNITY PLANNING & BUILDING DEPARTMENT
CITY OF CARMEL-BY-THE-SEA**

TO: Planning Commission and Interested Parties

FROM: Evan Kort, Senior Planner

DATE: November 7, 2024

SUBJECT: ***DRAFT –75% version; for Planning Commission Workshop on November 13, 2024 – edits as of November 7, 2024***

Abbreviations:

ADU	Accessory Dwelling Unit	IP	Implementation Plan
CCC	California Coastal Commission	JADU	Junior Accessory Dwelling Unit
CDP	Coastal Development Permit	LCP	Local Coastal Program
ESHA	Environmentally Sensitive Habitat Area	LUP	Land Use Plan
HCD	Housing and Community Development		

Readers Note: In March 2024, the California Legislature enacted Senate Bill 477 as an urgency measure. SB 477 was signed by Governor Newsom on March 26, 2024, and it took effect immediately. The bill's purpose is to make state law governing Accessory Dwelling Units ("ADUs") and Junior Accessory Dwelling Units ("JADUs") easier to read and navigate. It does so by relocating numerous Government Code sections into a new chapter, and, within that chapter, key regulations are divided into smaller sections by topic area. SB 477's changes to state law are only organizational; none are substantive.

The regulations governing the creation of ADUs (formerly located in Government Code sections 65852.2 and 65852.23, and 65852.22 for JADUs) are now located in [Government Code sections 66310–66342](#). Some cited or quoted texts may refer to government code sections which pre-date SB 477 and are listed within section Government Code section 65852.2, for example. While the reference code section may be changed, the text language generally remains unaltered and applicable.

SUMMARY:

The City of Carmel-by-the-Sea draft ADU ordinance has been informally reviewed by the Department of Housing and Community Development (HCD) staff. During a February 2024 meeting between the city and HCD staff, it was request by HCD staff that the city provide evidence and clarification of how deviations from the ADU statute are necessary to comply with the Coastal Act and the city's Local Coastal Program (LCP) in accordance with [Government Code Section 66329](#). This document provides responses to the question regarding how the city's draft ordinance is required for consistency with the city's Certified Local Coastal Program, and by extension, the California Coastal Act.

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In addition, this document provides responses to the comments provided by HCD staff during their informal review of the city's draft ADU ordinance following the city's 1st ADU workshop with the Planning Commission held in November 2023.

BACKGROUND:

Beginning in 2019, California state legislature began passing a number of laws (Senate and Assembly Bills) reducing barriers to entry and streamlining the process for the establishment of Accessory Dwelling Units (ADUs) for all cities and counties in California. According to the [Department of Housing and Community Development HCD July 2022 ADU Handbook](#) ("ADU Handbook"), there have been eight bills in respect to ADUs passed, primarily codified in Government Code sections 65852.2. Additional legislation has been passed since the publication of the ADU Handbook and in March 2024, SB 477 was passed reorganizing the structure of the ADU statutes into Chapter 13 of the California Government Code (Sections 66310-66342; "ADU Statute" or "Statute").

The City Council of the City of Carmel-by-the-Sea has directed the Community Planning and Building Department to prepare an ordinance for adoption addressing the state's requirements for ADUs. The Department began its efforts in early 2023, discussed policy matters with the city's legal council, met with California Coastal Commission (CCC) staff, and then took a draft version of an ordinance to a public workshop with the city's Planning Commission in November 2023.

Following the Planning Commission workshop, staff met with members of the Department of Housing and Community Development (HCD) to receive preliminary feedback on the draft ordinance and to receive direction. HCD staff provided preliminary feedback on the draft ordinance (comments and responses outlined within the memorandum).

With the preliminary comments, the city updated and revised the first draft of the ordinance and provide additional clarifications regarding how the proposed ordinance aligns with the city's Local Coastal Program and the Coastal Act, as required in Government Code Section 66329 as the first draft of the ordinance proposed several deviations from the state statute which were required for consistency with the Coastal Act.

On October 22, 2024, city staff met with Coastal Commission staff and shared a working version of the draft ordinance including the supplemental findings to support where the LCP does not align with the state statute. While Commission staff has not yet provided any written comments on the proposed ordinance, Commission staff verbally were in support of the staff position based on the discussion at the October 22nd meeting.

On November 5, 2024, city staff met with HCD staff to share updates made to the ordinance since their review of the first draft, provide updates regarding the meeting with the Coastal Commission, and receive general direction regarding the next steps. HCD staff was provided with a copy of a draft ordinance and has offered to provide comments on the revised ordinance.

A notable item regarding the status of the draft ordinance which did come up in discussion with HCD staff was that the position of HCD is that the proposed ordinance should wholly comply with the state statute with an "allowance" (of sort) for deviations for where necessary for compliance with the Coastal Act in accordance with Government Code Section 66329. While staff had initially proposed an ordinance that would be specific to Carmel-by-the-Sea as the entirety of the city is subject to a Local Coastal Program,

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HCD's preference would be for the language in the ordinance to still comply with the state statute even where there would be direct conflicts with what could be approved through a Coastal Development Permit (CDP) due to conflicts with the city's LCP.

While revisions could be made to satisfy the direction of HCD, staff's concern is this could lead to confusion over competing provisions within the body of the ordinance since many of the statutes would simply not apply (refer to analysis below) which may lead to confusion during implementation. As this is a recent development, staff has not yet been able to incorporate this feedback into the draft ordinance.

THE ISSUE:

The city's adopted Land Use Plan (LUP), was found to meet the requirements of the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act. In short, the LUP, in addition to the city's implementation plan, are consistent with the California Coastal Act as adopted by the California Coastal Commission on October 14, 2004, and subsequent amendments. However, strict adherence to the state statute relative to ADUs directly conflicts with many of the objectives, goals, and policies of the city's LCP, as adopted today, and by in turn, the California Coastal Act.

CARMEL-BY-THE-SEA LOCAL COASTAL PROGRAM:

The City of Carmel-by-the-Sea is located entirely within the boundary of the coastal zone and has a [Certified Local Coastal Program \(LCP\)](#). The California Coastal Commission gave final certification of the LCP on October 14, 2004 which includes a policy document, Land Use Plan (LUP), and a set of ordinances and resolutions to implement those policies, Coastal Implementation Plan (CIP).¹



Figure 1. Coastal Zone Boundary illustrated by BLUE line. Entirety of city limits located west of coastal zone boundary and Highway 1 - de facto coastal zone boundary. Source: California Coastal Commission.

¹ Carmel General Plan – Introduction – Page I-7

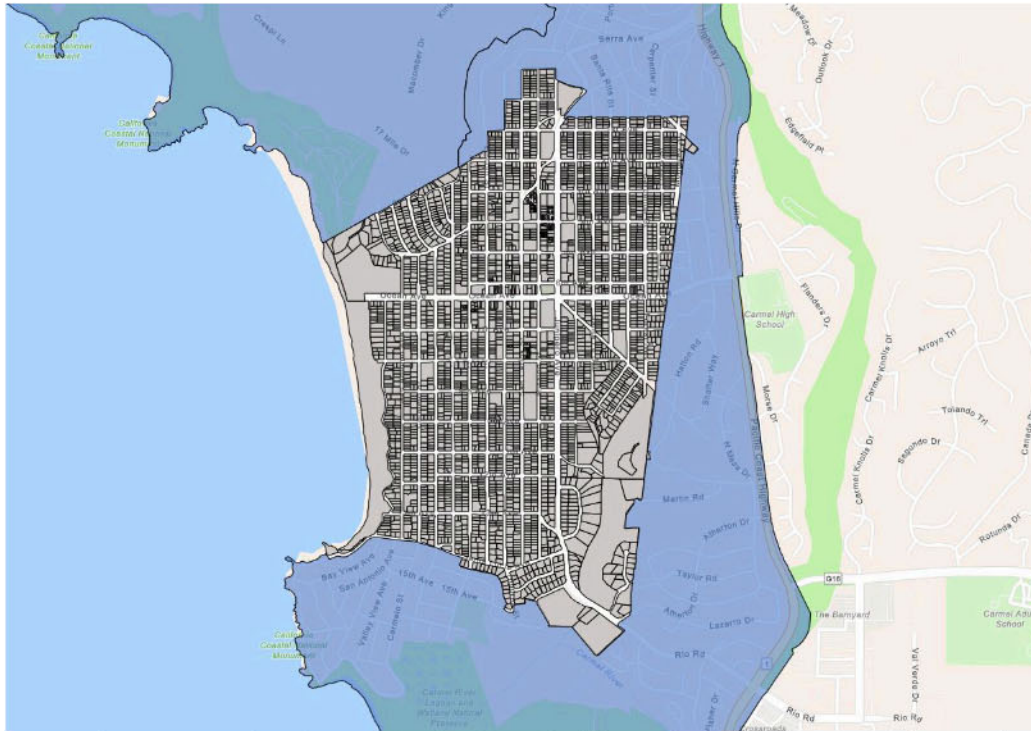


Figure 2. Coastal Zone Boundary (transparent **BLUE** area) bounding the entirety of the city limits of the City of Carmel-by-the-Sea (**GRAY** parcel map showing extent of city limits).

As described in the city's General Plan, "Carmel's General Plan has been combined with its Local Coastal Land Use Plan to ensure coordination of these two policy documents. The Coastal Land Use Plan sets forth goals, objectives, and policies that govern the use of land and water in Carmel-by-the-Sea consistent with Chapter 3 of the California Coastal Act of 1976 (as amended through January 2003). Chapter 3 of the California Coastal Act contains coastal resources planning and management policies that address public access, recreation, marine environment, land resources, development, and industrial development."²

The City's Land Use Plan describes the associated chapters in the following manner:

Community Character and Development. This Chapter of the General Plan covers topics required in the Land Use Element. This heading also includes policies for topics in sections [30244](#) and [30250 through 30254](#) of the Coastal Act.

Circulation. This Chapter or Element of the General Plan is one of the seven elements required by California Statutes. Several of the policies in this element also implement provisions of the Coastal Act.

Coastal Access and Recreation. This Chapter includes policies for topics covered in sections 30210 through 30224 ([30210-30214](#); [30220-30224](#)) of the Coastal Act.

² Carmel General Plan – Introduction – Page I-1

Coastal Resource Management. This Chapter of the General Plan includes policies for topics in sections 30230 through 30243 ([30230-30236](#); [30240-30243](#)) and [30251](#) of the Coastal Act.

Appendices to the Land Use Plan include the:

- Forest Management Plan;
- Mission Trail Nature Preserve Master Plan;
- Final Results of the Environmentally Sensitive Habitat Area Study Conducted for the City of Carmel-by-the-Sea (ESHA Study);
- Historic Context Statement, Carmel-by-the-Sea.

The Coastal Implementation Plan consists of the Carmel Zoning Code (Title 17 of the Municipal Code) including;

- Appendix A: Shoreline Management Plan;
- Appendix B: Significant Tree Evaluation Worksheet;
- Appendix C: Residential Design Guidelines – Concept Review;
- Appendix D: Residential Design Guidelines – Final Details Review;
- Appendix E: Commercial Design Guidelines – Commercial Design Guidelines;
- Appendix F: Public Way Design Guidelines;
- Appendix G: Archaeological Resource Management Reports (ARMR): Recommended Contents and Format;
- Appendix H: Storm Water Standards and Programs;
- Appendix I: Secretary of Interior's Standards for Rehabilitation of Historic Buildings;³
- Appendix J: Del Mar Master Plan.

In a February 13, 2003 staff report prepared by Coastal Commission Staff for the March 6, 2003 hearing for the adoption of the city's Land Use Plan, Commission staff argues the following (emphasis added in **Bold**, underline, and **highlight**):

It is often stated that Carmel, along with such other distinct communities as the town of Mendocino, is one of the special communities for which Coastal Act section 30253(5) was written⁴. Carmel is a very popular visitor destination, known as much for the style, scale, and rich history of its residential, commercial, and civic architecture, as for its renowned shopping area, forest canopy and white sand beach. As a 'primarily residential community, the established pattern of development in Carmel plays a key role in defining the special character of the City, as various architectural styles reflect the historical influences that have existed over time. Carmel is distinctly recognized for its small well-crafted cottages, informal streetscapes, architectural diversity, and forested landscape. These modest residences are associated with the era in which Carmel was known for its resident artists and writers, and functioned as a retreat for university professors and other notables. Homes were nestled into the native Monterey pine/Coast live oak forest, on a grid of streets that yielded to trees more than to engineering expediency.

³ Resolution 2004-30

⁴ Additional reference provided in letter prepared by Coastal Commission Central Coast Deputy Director titled: [Coastal Development Review and LCP Completion/Protection of Community Character in the City of Carmel-by-the-Sea](#); November 2, 2000.

Section 20253(e): *New development shall where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Further described in the same February 13, 2003 staff report, the Commission staff re-states and recommends the following modification to the land use plan to ultimately achieve consistency with the Coastal Act (emphasis added in **Bold**):

Carmel is one of those special communities for which Coastal Act section 30253 was written. *Though much is made of the eclectic cottages in the forest and brilliant white sand beach, world-renowned shopping, proximity to Pebble Beach and gateway to Big Sur, the LUP does not designate Carmel a "special community" worthy of protection. Modification 27 acknowledges the significance of City's unique character and designates Carmel a special community and highly scenic area for the purposes of Coastal Act Sections 30251, 30253, and 30610 along with corresponding regulation 13250. This designation provides the basis for requiring coastal development permit review of development proposals that potentially impact historic and/or character resources.*

The Coastal Commission recommended the inclusion of modification #27 which was incorporated into the Land Use Plan, as described below:

27. Add the following text to page 5, end of the second paragraph: The incorporated City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics.

As adopted, the City's Land Use Plan includes the following language:

Carmel-by-the-Sea is internationally recognized as a unique small coastal community with a residential village character. Early development was predominantly residential. Commercial development began as small-scale village enterprises designed to serve the needs of the local residents. Through the years, these commercial uses have expanded to cater largely to visitors. (LUP)

Located adjacent to Carmel Bay with gently rising slopes, the City has conscientiously retained its residential village character in a forest setting, dominated by Monterey Pines. The special character of this residential coastal community is considered a unique asset of statewide and national significance that should be maintained as a resource both for local residents and for visitors. The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics. (LUP)

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Section 30251:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253.

New development shall do all of the following:

- a. Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- b. Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- c. Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.
- d. Minimize energy consumption and vehicle miles traveled.
- e. Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

The California Coastal Commission has also cited Carmel-by-the-Sea's LCP as an example of an LCP which contains specific policies design to protect Special Communities and Community Character. As described in the [July 13, 2013 LCP Update Guide](#):

One example of policies designed to protect special communities and community character is the City of Carmel-by-the-Sea LCP, which includes a comprehensive set of policies and ordinances designed to protect the special historic character of Carmel.

The Carmel example includes a number of policies designed to maintain city's community character, which is exhibited through many of its smaller cottages and its informal streetscape, and which is a draw for many visitors. Carmel's policies require, among other directives:

- *Assuring priority land uses, including a mix of commercial uses, that are compatible with the needs of visitors and the character of the area as a residential village;*

- *Limiting the location of new commercial activity to present commercial and multi-family districts and protecting the established patterns of land use throughout the city while providing for a high-quality pedestrian oriented environment;*
- *Adopting standards for development that retain the scale and character of the City including requiring design review for new homes and additions;*
- *Requiring that new development on each site is compatible and sensitive to the surrounding natural features and built environment of the site and of surrounding areas and contributes to neighborhood character;*
- *Allowing land uses that are compatible with local resources and the natural resources and scenic quality of the area, including preserving significant areas of vegetation and open space.*

Maintaining Community Character

Recognizing that some amount of development or re-development will be necessary, and to ensure community character is maintained, the Land Use Plan contains policies that respond to the Coastal Act through a combined approach of conservation and preservation. Conservation allows change and new construction as long as it is consistent with established character. This approach is appropriate for new buildings, remodels, and additions, involving non-historic resources. The City implements conservation of its character through its Design Guidelines for the residential district, the commercial district and for the public way. The overall character of the City can be conserved through appropriate policies related to the urbanized forest, roadway design and building design. Preservation requires that historic resources be protected and rehabilitated without changes that would damage their integrity.⁵

When the Land Use Plan was being considered, Coastal Commission staff found that the City's Residential Design Guidelines (completed prior to adoption of the LCP) more specifically address the treatment of size, massing, coverage, open space, streetscapes, and the forest landscape than the proposed policies contained within the proposed Land Use Plan. The Commission stated that within the Residential Design Guidelines, primary consideration is given to compatibility with the design traditions of Carmel, maintaining the urban forest character, promoting buildings that are in scale with that context, while encouraging diversity in design. As such, the Commission recommended that the LUP be modified to incorporate various Design Guidelines into the LUP. In practice, application of these modified policies still leave considerable discretion to the City decision-makers on matters of design style and elements, and ensures that new development fits within the City's existing community character.⁶

RELATION TO ADUs AND THE CARMEL LCP:

While the ADU statute requires local jurisdictions provide for streamlined and ministerial approvals of ADUs including the granting of certain waivers and exceptions for their development, the city's LCP conflicts with the requirements and current mandates of the state law both in terms of process and required development standards.

Notably, the statute currently states (Government Code Section 66329):

⁵ Carmel General Plan – Land Use & Community Character – Page 1-22

⁶ Coastal Commission Staff Report; City of Carmel-by-the-Sea: Land Use Plan Re-submittal (3rd); November 21, 2003

Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

Additionally, HCD's July 2022 ADU handbook states: "ADU laws apply to jurisdictions in the California Coastal Zone, but do not necessarily alter or lessen the effect or application of Coastal Act resource protection policies. (Gov. Code, § 65852.22, subd. (I)⁵.) Coastal localities should seek to harmonize the goals of protecting coastal resources and addressing housing needs of Californians. For example, where appropriate, localities should amend Local Coastal Programs for California Coastal Commission review to comply with the California Coastal Act and new ADU laws."

On January 21, 2022, the California Coastal Commission (CCC) published a memo titled, [Updates Regarding the Implementation of New ADU Laws](#). The memo discusses the authority that the Coastal Act grants the Commission and local governments over housing in the coastal zone, new legislation regarding ADUs, how local governments can streamline ADU applications under the Coastal Act, and some key issues that should be considered when LCP amendments for ADU provisions are undertaken.

Notable points addressed within the memo include (emphasis added in **bold**):

1. *Outside of an LCP context, existing or new J/ADU provisions that do not meet the requirements of the new legislation are null and void and will be substituted with the provisions of Section 65852.2(a) until the local government comes into compliance with new provisions. (Gov. Code § 65852.2(a)(4).) **However, existing [ADU and/or JADU] provisions contained in certified LCPs are not superseded by Government Code Section 65852.2 and continue to apply to Coastal Development Permit (CDP) applications for J/ADUs until the LCP is modified.** Coastal jurisdictions without any J/ADU provisions or with existing J/ADU provisions that were adopted prior to January 1, 2020 are encouraged to update their LCPs to comply with the State's new laws. Such new or updated LCP provisions need to ensure that new J/ADUs will protect coastal resources in the manner required by the Coastal Act and LCP...;*
2. *In non-coastal zone areas, local governments are required to provide rapid, ministerial approval or disapproval of applications for permits to create [ADUs and/or JADUs], regardless of whether the local government has adopted updated [ADU and/or JADU] provisions. (Gov. Code § 65852.2(a)(3).) **In the coastal zone, CDPs are still necessary in most cases to comply with LCP requirements (see below); however, a local public hearing is not required, and local governments are encouraged to streamline [ADU and/or JADU] processes as much as feasible;***
3. *Other recent legislative changes clarify that local [ADU and/or JADU] provisions may not require a minimum lot size; owner occupancy of an ADU (though if there is an ADU and a JADU, one of them must be owner-occupied); fire sprinklers if such sprinklers are not required in the primary dwelling; a maximum square footage of less than 850 square feet for an ADU (or 1,000 square feet if the ADU contains more than one bedroom); and in some cases, off-street parking. Section 65852.2(a) lists additional mandates for local governments that choose to adopt a [ADU and/or JADU] ordinance, all of which set the "maximum standards that local agencies shall use to evaluate a proposed [ADU] on a lot that includes a proposed or existing single-family dwelling." (Gov. Code*

§ 65852.2(a)(6).) As indicated above, in specific cases coastal resource considerations may negate some such requirements, but only when tied to a coastal resource impact that would not be allowed under the Coastal Act and/or the LCP. In recent LCP amendments, these types of considerations have most often arisen in terms of the off-street parking provisions;

4. *While most [ADU and/or JADU] projects take place within established residential neighborhoods where potential coastal resource impacts are fairly limited, there can be cases where such projects may affect significant coastal resources, such as sensitive habitats and shorelines and beaches. As a general rule, LCPs include many provisions protecting such resources, and it is important that proposed [ADU and/or JADU] provisions are not structured to undo any such LCP protections that already apply. [ADUs and/or JADUs] may need to be reviewed for specific siting and design standards, particularly in visually sensitive areas (such as the immediate shoreline, between the first public road and the sea, near LCP-designated scenic areas, etc.). Similarly, where sensitive habitat may be present, [ADUs and/or JADUs] must be reviewed for impacts to such habitat, including with respect to fuel modification for defensible space. Additionally, local governments should include provisions for [ADUs and/or JADUs] constructed in areas vulnerable to sea level rise and other coastal hazards which ensure not only that these structures will meet all LCP requirements for new development to be safe from such hazards, but that also addresses the need for future sea level rise adaptations (including future accommodation or removal, risk disclosure conditions on the [ADU and/or JADU], and any other risk-related issues dealt with in the LCP).*

The memo published by the CCC also encourages local governments to update their LCPs with ADU and/or JADU provisions in a manner that harmonizes the State's housing laws with the Coastal Act. Doing so would protect the State's coastal resources while also reducing barriers to constructing ADU and/or JADU and helping to promote more affordable coastal housing.

THE GOAL:

The goal of the city's proposed ADU ordinance is to harmonize the provisions of the ADU statute with the goals and policies of the Coastal Act and the city's LCP. Development of ADUs have the support of the community, the City Council, the Planning Commission, and city staff. In fact, this ordinance will play a key role in meeting the city's RHNA allocation for the city's Housing Element which was adopted by the City Council on April 8, 2024⁷. The goal of this ordinance is not to limit, preclude, or exclude ADUs in any manner, but to ensure consistency with the city's LCP and harmonize with the state statute with the Coastal Act as to the greatest extent feasible as appropriate for the city.

Under the proposed ordinance, ADUs be permitted on all building sites where single family and multi-family residences are permitted, as required by the state statute, with no change or limitation to the potential number of total number of potential housing units that could be allowed. The modification proposed to ensure consistency with the Coastal Act would come in the form of the standard of review (ranging from ministerial to discretionary based on a specific criteria) to ensure there are no impacts to coastal resources.

The goal of the proposed ordinance is to provide a clear framework as well as procedural expectations for the project from start to finish for all projects in the city as all projects would all be subject to the same regulatory framework of the Local Coastal Program.

⁷ Adopted 6th Cycle Housing Element (2023-2031); City of Carmel; April 8, 2024; Program 1.3.C

Because of this, some clear deviations from the ADU statute are proposed, but they are proposed in good faith and are tied to a coastal resource impact that would not be allowed under the Coastal Act and/or the LCP which are authorized in accordance with Government Code Section 66329.

ANALYSIS/RESPONSE TO COMMENTS:

The section below addresses the informal comments provided by the Department of Housing and Community Development as a courtesy review of the draft ordinance. The city's response to their comment has been provided immediately following including any supplemental information or analysis, if necessary. A redlined version of the draft ordinance has been included as Attachment A.

1. 17.ADU.030 (A)(1) – *Number of ADUs, Single Family* – Allows 1 ADU and 1 JADU per single-family lot, conflicting with Government Code Section 65852.2 (e) which allows 1 converted ADU, 1 detached ADU and 1 JADU within the primary dwelling.
 - a. Revised accordingly. Updated to allow 1 conversion, 1 detached, and 1 JADU.
2. 17.ADU.030 (B)(1), (B)(2) – *Floor Area, Single Family* – The floor area is limited to be inclusive of the zoning's lot coverage and floor area allowances, meaning that if a lot has already developed a single-family home that meets/exceed buildable area allowed on the lot, an ADU cannot be constructed. This directly conflicts with Government Code Section 65852.2 (c)(2)(C), and (e)(1)(B) which allows a detached 800SF ADU. This regulation could have the effect of banning ADU new construction on most single-family parcels with existing single-family dwellings in Carmel.
 - a. This is required for LCP consistency. See Land Use Plan Policy see P1-48.

Background

While multiple land use policies make reference to minimizing building mass, limiting floor area and coverage, creating setbacks and preserving open space, **P1-49** expressly limits above-grade floor area on 4,000 square foot lots to a maximum of 1,800 square feet:

***P1-49:** Limit above-grade floor area on 4,000 square foot lots to a maximum of 1,800 square feet. Projects with less above-grade square footage shall be preferred. Structural coverage shall not exceed 45% of the site. Total site coverage (structural and other impermeable coverage) on 4,000 square foot lots shall not exceed 55% of the site. Locate open space so that it visually links with adjacent properties. (LUP)*

In a staff report dated November 21, 2002 for the consideration of the adoption of the city's LCP. The staff report stated, in part (emphasis added in **BOLD**):

...in an earlier section of this report, it was demonstrated that the current zoning standards for floor area ratio and site coverage

were contributing to the erosion of community character through the approval of larger homes relative to the established size and scale of Carmel's small cottages. The current standards allow 1,800 square feet of floor area on single 4,000 square foot lots. This is roughly 50% greater in size than the average existing cottage and has resulted in **adverse effects on site coverage, setbacks, massing, and the urban forest**. Site coverage for a single-story residence including patios, driveways, and walks could exceed 60% of a 4,000 square foot lot. At this size, homes no longer are subordinate to the natural environment but rather they become the dominant feature of the site, often overriding other features such as trees and topography.

To remedy this, **the Commission is recommending that the above grade floor area ratio be reduced to 1,600 square feet on 4,000 square foot lots and structural coverage limited to 40% of the site**. Other site coverage (i.e., non-structural) would remain at 10% for a 4,000 square foot lot. This allows for a reasonable amount of re-development without significant adverse impacts. The proposed above-grade FAR is roughly one third greater than the average established size of existing cottages and represents about an 11% reduction in the current floor area standard. Limiting above-grade floor area will increase the amount of open space on these small lots by 200 square feet, providing extra room for trees and other vegetation while avoiding the extra mass associated with the larger home. There will be fewer impacts to the streetscape and less pressure on adjacent small cottages to re-develop. New homes could, of course, be greater than 1,600 square feet with the inclusion of some basement floor area, though this would be allowed only if the proposed design met all the other criteria identified in the LUP (e.g., preservation of trees, etc). There is also a precedent for limiting floor area to 1,600 square feet. Categorical Exclusion Order E-77-13 under which the City currently operates, excludes from the permit requirements of the Coastal Act construction of residential homes in Carmel 1,600 square feet or less. The Commission found at the time of the adoption of the order that development of single family residents 1,600 square feet or less would not result in any significant adverse impacts. Overall, **to achieve consistency with section 30253 [of the Coastal Act], the Commission recommends the following modification to the City's submitted LUP document:** Modification 7 Limit above grade floor area on single lots (i.e, 4,000 square feet) to a maximum of 1,600 square feet. Projects

with less above grade square footage shall be preferred. Structural coverage shall not exceed 40% of the site. Total site coverage (structural and other impervious coverage) on 4,000 square foot lots shall not exceed 50% of the site. Locate open space so that it visually links with adjacent properties. Thus, with the above required modifications, the Commission finds that the LUP Community Character policies are consistent with section 30253 of the Coastal Act.

The city ultimately did not agree with the Coastal Commission staff recommendation, pushed back on the limitation of 1,600 square feet for above ground improvements, and pursued the commission to accept an allowance for a residence of at least 1,800 on a 4,000 square foot site. In a February 13, 2003 staff report prepared by Coastal Commission staff for consideration of the adoption of the city's LCP (the following hearing), Coastal Commission staff continued to recommend denial of the Land Use Plan.⁸ Ultimately, the Coastal Commission sided with the city and approved the Land Use Plan, as presently adopted, finding the associated policies consistent with section 30253 of the Coastal Act. Despite the Coastal Commission pursuing a reduction in allowable floor area citing concerns surrounding section 30253, the city was successful in pursuing additional floor area over the Commission's original recommendation.

This concern was first addressed in the November 21, 2002 Coastal Commission Staff Report (prior hearing) where commission staff explained that:

*Since mid-1997, the City has continued to experience unprecedented development activity during one of the most prolific economic expansions in modern times. [Coastal Commission] staff evaluated building permits issued by the City during one 18 month period at the height of the boom (i.e., 9/2000 - 2/2002) and discovered that more than 80 substantial alterations and remodel permits were issued; 55 of those involved development in excess of \$50,000. Though not technically considered demolitions (according to the City's current definition), these types of construction activities have significantly altered the character of existing structures and neighborhoods, but have been **excluded from the coastal development permit review process...***

This information shows that a significant number of smaller cottages have been demolished or altered or remodeled in a relatively short period of time. Furthermore, the replacement

⁸ Coastal Commission Staff Report; City of Carmel-by-the-Sea: Land Use Plan Re-submittal (3rd); February 13, 2003

homes and substantial remodels are resulting in larger floor area, mass, and site coverage. The streetscapes and spatial relationships are changing, the forest prominence as a defining character element is declining, open space is disappearing, and more traditional architectural styles are being supplanted by modern eclecticism. There are also as yet unmeasured impacts on the watershed functions of the forest including absorption and conveyance of storm water and filtration of pollutants. Considering the trend of demolition, substantial alteration, and remodel over the past 10 years, it is becoming evident that this development activity is having a significant cumulative adverse impact on the unique character of Carmel and the LUP, as submitted, does not adequately address this trend. As such, it is inconsistent with section 30253 of the Coastal Act.⁹

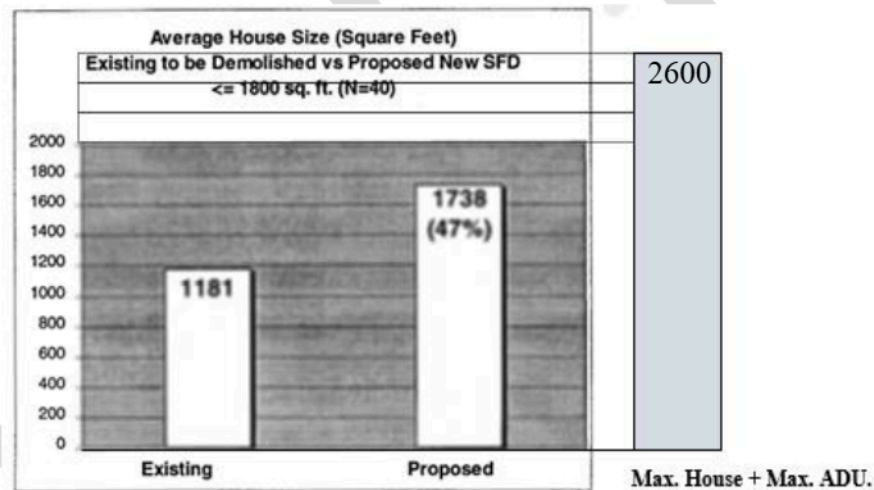


Figure 3. “Carmel, Changes in House Size.” Original figure from November 21, 2002 Coastal Commission staff report. Modified to include 800 square foot ADU in addition to 1,800 square foot primary dwelling (note: 1,800 sf is the max. base floor area allowed on a 4,000 square foot lot -typical lot size).

Should ADUs be permitted by-right to be developed 800 square feet beyond the maximum floor area limit, developed sites could have 44.4% more mass on the site as a result of the proposed development (2,600 square feet vs. 1,800 square feet). This new development pattern is inconsistent with what the Coastal Commission had originally recommended to achieve consistency with section 30253 of the Coastal Act, as well as the finding that development larger than 1,800 square feet were no longer are subordinate to the natural environment, detrimental to community character including forest resources and, and would result in unmeasured impacts on watershed functions.

⁹ Coastal Commission Staff Report; City of Carmel-by-the-Sea: Land Use Plan Re-submittal (3rd); November 21, 2002

In line with the discussion above, the allowable floor area of the site, and what may be allowed for an ADU, is also tied to the a number of programs and policies incorporated into the Land Use Plan for compliance with the Coastal Act, specifically section 30253, as it relates to the natural environment, tree protection measures, and preservation of open space resources.

As discussed in a November 21, 2002 staff report prepared by Coastal Commission staff for the consideration of the adoption of the city's Land Use Plan finds that *"Policies addressing the treatment of size, mass, coverage, open space, streetscapes and the forest landscape are critical to maintaining and preserving community character in Carmel."* Furthermore, the same report finds that amendment's to the city's land use and landscape policies were required for consistency with Coastal Act Section 30251. Such recommended modifications in the subject staff report included:

- *Prohibit the removal of significant trees (i.e., greater than 12" dbh) unless it would prevent a reasonable economic use of the site or pose a threat to health and safety. Locate buildings and other site structures to avoid removal and pruning and otherwise minimize damage to existing significant trees. Avoid impacts to trees by avoiding/minimizing impacts to the root protection zone (i.e, within the drip-line). Establish continuity of landscape elements throughout each neighborhood. Replace trees removed for construction with several saplings. Require that they be nurtured until well established.*
- *All demolitions, remodels, and substantial alterations shall be consistent with the following findings:*
 - ...
 - *The development does not require removal of any significant trees (> 12" dbh) unless necessary to provide a viable economic use or protect public health and safety. All development will be setback a minimum of 6 feet from significant trees.*

Substantially similar policies were adopted in the city's final Land Use Plan (refer to Policies P1-44 and P1-45) with the major difference being the determination for how trees are determined to be significant (rating/evaluation by the city forester versus the initial proposal of being based on trunk diameter).

While there is minimal discussion in the associated Coastal Commission staff reports, the adopted Land Use Plan maintains number of other policies that speak to preservation of open space and tree protection in line with the community character discussion in the associated Coastal Commission staff reports as part of

the discussion as part of consistency with Coastal Act section 30253. Adopted policies Land Use Plan include:

P1-38: *Each site shall contribute to neighborhood character including the type of forest resources present, the character of the street, the response to local topography and the treatment of open space resources such as setbacks and landscaping. It is intended by this policy that diversity in architecture be encouraged while preserving the broader elements of community design that characterize the streetscape within each neighborhood. (LUP)*

P1-39: *Site improvements shall be compatible with, and sensitive to, the natural features and built environment of the site and of the surrounding area. Design solutions should relate to and take advantage of site topography, vegetation and slope. Designs shall recognize the limitations of the land and work with these limitations rather than ignoring them or trying to override them. (LUP)*

P1-40: *Residential designs shall maintain Carmel's enduring principles of modesty and simplicity and preserve the City's tradition of simple homes set amidst a forest landscape. Buildings shall not present excess visual mass or bulk to public view or to adjoining properties. Buildings shall relate to a human scale in their forms, elements and in the detailing of doors, windows, roofs, and walkways. Oversized design elements make structures appear dominating and monumental. This out-of-scale character represents a poor fit to the human form, vitiates the more intimate, rural charm and village character of Carmel-by-the-Sea and should be avoided. (LUP)*

P1-41: *The design of structures shall be coordinated with open space to enhance the park-like environment of the City. Open space should be distributed around buildings to provide visual relief from structural bulk and a distinct separation from buildings on adjacent sites. Designs shall coordinate structural elements with landscaping to achieve a pleasing overall site design. (LUP)*

The Coastal Resource Management Element also notes the following similar policies in respect to preservation of open space and protection of the natural resources as a result of development:

P5-59 *Avoid encroachment within the root protection zone of significant trees. Removal of significant live Monterey pine trees to facilitate residential development is prohibited unless necessary to provide a viable economic use or protect public health and safety. (LUP)*

P5-64 *New development shall be sited and designed to avoid or minimize significant adverse effects to the forest. Avoid projects that significantly increase building footprint to the detriment of trees. No grading, compaction of soils, construction of building walls or placement of impermeable surfaces within six feet of trees classified as significant shall be permitted. (LUP)*

P5-70 *Require a documented site assessment, or meeting between a planner, City Forester, and the property owner/developer, on each proposed construction site to discuss tree preservation and planting. Establish tree protection zones and suitable locations for development through this process. This shall be done before plans have been drawn. (LUP)*

P5-71 *Evaluate, protect and preserve all trees (and their root zones) on sites prior to, during, and after construction. Ensure that all building sites abide by appropriate tree protection and preservation standards and guidelines provided in the Forest Management Plan. (LUP)*

As previously discussed, Carmel's LCP includes a number of policies designed to maintain city's community character. These policies are directly tied to Coastal Act Section 30253 and include directives to preserve significant areas of vegetation and open space, require that new development on each site is compatible and sensitive to the surrounding natural features and built environment of the site and of surrounding areas and contributes to neighborhood character, and maintaining standards for development that retain the scale and character of the city.

Additionally, floor area is intrinsically tied to building coverage. While the city generally does not use a separate development standard for floor area and building coverage, they are closely related (the city uses floor area for counting improvements within the enclosing walls, and site coverage for improvements outside the area that counts as site coverage):

A February 13, 2003 Coastal Commission staff report explains that (emphasis added in **BOLD**):

The Commission recognizes that new development in Carmel-by-the-Sea has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources. Coastal Act Sections 30230 and 30231 listed above require that coastal water quality be protected through policies that manage these types of new development impacts.

In particular, new development often results in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on project sites. As discussed in the community character finding, redevelopment activity in Carmel has the potential to lead to increased impermeable surface, particularly on the smaller, 4000 square foot lots in the City where typically small structures are located. In the last several years the Commission has reviewed permits for residential demolition and rebuilds that have generally resulted in significant increased impervious coverage. For example, in the last year the average proposed increase in site coverage on 4000 square foot lots was approximately 375 square feet or 9%. This includes, though, a wide range of proposed changes in coverage, including some projects that reduced coverage slightly to projects that increased coverage by over 70% or greater than 1,000 square feet.

The reduction in permeable surface therefore leads to an increase in the volume and velocity of storm water runoff that can be expected to leave the site. The cumulative effect of increased impervious surface is that the peak stream discharge is increased and the peak occurs much sooner after precipitation events. Changes in the stream flow result in modification to stream morphology. Additionally, runoff from impervious surfaces results in increased erosion, sedimentation, and non-point source pollution...

The report acknowledges that site coverage is but one component of the land use-water quality nexus, but it does underscore the importance of minimizing impervious site coverage overall.

Minimizing impervious site coverage (which includes building coverage) is

necessary as Carmel-by-the-Sea lies within and at the bottom of the Carmel River watershed. Runoff from the City flows into Carmel Bay, which is designated both as an Area of Special Biological Significance (ASBS) in the California Ocean Plan, and as a California Fish and Game Ecological Reserve. It is also part of the Monterey Bay National Marine Sanctuary. An ASBS is an area designated by the State Water Resources Control Board that requires special protection of species or biological communities that could be impacted by water quality degradation. As discussed in the Public Access finding, Carmel Beach and the shoreline also is a highly popular public recreation area. Maintaining and restoring water quality throughout the Carmel River watershed, and in this case, Carmel's urban landscape, is necessary to protect these sensitive coastal resources.¹⁰

At the time of adoption of the LCP, the Commission recognized that new development in Carmel-by-the-Sea has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources. Coastal Act Sections 30230 and 30231 require that coastal water quality be protected through policies that manage these types of new development impacts.¹¹

In particular, new development often results in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on project sites. As discussed in the community character finding, redevelopment activity in Carmel has the potential to lead to increased impermeable surface, particularly on the smaller, 4000 square foot lots in the City where typically small structures are located.¹²

The reduction in permeable surface therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. The cumulative effect of increased impervious surface is that the peak stream discharge is increased and the peak occurs much sooner after precipitation events. Changes in the stream flow result in modification to stream morphology. Additionally, runoff from impervious surfaces results in increased erosion and sedimentation. In a setting such as Carmel, where informal street design (no curbs and gutters generally; unpaved road edges and narrow pavement sections, etc.) tend to encourage storm water percolation in portions of the right of way that remain landscaped or pervious Increased site runoff could potentially have a significant impact on existing runoff patterns if not properly managed, ultimately resulting in increased erosion and a future need to manage runoff through subsurface engineered drainage structures. Thus, although Carmel's street design character already minimizes impervious coverage it is desirable to mitigate additional hardscape from private development to protect water quality, and

¹⁰ Coastal Commission Staff Report; City of Carmel-by-the-Sea: Land Use Plan Re-submittal (3rd); February 13, 2003

¹¹ *ibid*

¹² *ibid*

maintaining the informal streetscape of Carmel.¹³

Maintaining permeable surfaces and managing runoff onsite also helps to limit the impacts of pollutant runoff. Pollutants commonly found in runoff associated with new development include:

- petroleum hydrocarbons such as oil and grease from vehicles;
- heavy metals;
- synthetic organic chemicals including paint and household cleaners;
- soap and dirt from washing vehicles;
- dirt and vegetation from yard maintenance;
- litter and organic matter;
- fertilizers, herbicides, and pesticides from household gardening or more intensive agricultural land use;
- nutrients from wastewater discharge, animal waste and crop residue; and
- bacteria and pathogens from wastewater discharge and animal waste.

The discharge of these pollutants to coastal waters can cause cumulative impacts such as:

- eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size;
- excess nutrients causing algae blooms and sedimentation increasing turbidity, which both reduce the penetration of sunlight needed by aquatic vegetation that provide food and cover for aquatic species;
- disruptions to the reproductive cycle of aquatic species;
- acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and
- human diseases such as hepatitis and dysentery.¹⁴

These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes, reduce optimum populations of marine organisms and have adverse impacts on human health. They are particularly important to manage in the vicinity of significant marine resources such as Carmel Bay – an Area of Special Biological Significance and Ecological Reserve.

As discussed above, limiting impervious surfaces is critical to maintaining and protecting water quality in Carmel. As discussed in the Community Character finding, it is also critical to protecting the urban forest and informal streetscape of Carmel – both essential pieces of Carmel’s unique community character.

The City’s water quality protection policies (Local Coastal Plan Objectives 05-45

¹³ ibid

¹⁴ ibid

and 05-45) as well as the city's water quality protection ordinance (CMC 17.43) that requires that new development minimize development footprints and directly connected impervious surfaces, as well as the increase in new impervious surfaces to implement Coastal Act sections 30230 – 30232 and 30240. Given the importance of this issue to the protection of water quality, it is necessary that the LUP have a specific impervious surface limitation for properties in the residential district. Without such specific limitation, it will be more likely that the small lots of Carmel will redevelop over time with significantly more impervious surfaces, and that the cumulative impacts of these surfaces on water quality will increase.¹⁵

Proposed Amendments

Based on the findings outlined above, the initial draft ordinance prepared by staff sought to achieve strict compliance with the Goals, Objectives, and Policies outlined in the adopted Land Use Plan. A workshop was held with the city's Planning Commission on November 15, 2023 and (in respect to this specific matter), the general sentiment was that the floor area limitation was too restrictive the Commission was supportive of exploring alternative options to allow for additional floor area beyond what may be permitted under the current LCP. Staff has proposed a pathway which would allow for up to an additional 800 square feet of floor area, consistent with the state statute, which combines existing review processes with the city's LCP to ensure a balance of development opportunity with coastal resource protection. This process is discussed in the "ADU Type Summary" beginning on Page 45. These "ADU Types" are referenced throughout and are referred to "Type 1," "Type 2," and "Type 3" units.

3. 17.ADU.030 (B)(3) – *Lot Allowances, Single Family* – Existing ADUs are counted towards the lot coverage and floor area allowances. This, again, conflicts with the unit allowances of Government Code Section 65852.2 (e), for which lot coverage and Floor Area Allowances do not apply.
 - a. The statute states: "*a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following... One detached, new construction, accessory dwelling unit... [with] A total floor area limitation of not more than 800 square feet.*"

The statute states the local agency shall permit an 800 sf ADU regardless of the existing floor area. If the city has permitted the ADU, has the city not fulfilled its permitting obligation?

This provision only applies to when an **existing ADU has been already been established on a site**, as specified in the proposed ordinance, and does not preclude the establishment of an ADU based on the floor area, or site coverage allowances based on the primary dwelling when an ADU does not exist (or has not been proposed).

¹⁵ *ibid*

The referenced subdivision does not state a jurisdiction cannot include a prohibition or limitation on floor area or coverage -only that up to an 800 square foot ADU shall be allowed under this subdivision.

Staff met with Coastal Commission staff on October 22, 2024 and discussed this matter; Commission staff agreed with staff's position.

Refer to section #2, above, for associated LCP findings.

4. 17.ADU.030 (B)(4) – *ADU inferiority, Single Family* – The floor area of an ADU is limited to be less than that of the primary dwelling. No such requirement exists for detached units within Government Code section 65852.2, and such a requirement directly conflicts with Government Code Section 65852.2 (c)(2)(C), which allows for an 800 square foot ADU regardless of such conditions and (e)(1)(B) which allows a detached 800SF ADU.
 - a. Revised. Clarified in CMC 17.ADU.030.B.3.
5. 17.ADU.030 (C)(1) – *Attached Unit Size, Single Family* – An attached ADU is limited to 50% of the primary dwelling, such a requirement directly conflicts with Government Code Section 65852.2 (c)(2)(C), which allows for an 800 square foot ADU regardless of such conditions.
 - a. Revised. Clarified in CMC 17.ADU.030.C.1.b
6. 17.ADU.030 (D)(1) – *Height, Single Family* – Height requirements same as local zoning. Without having checked other parts of the municipal code not stated within this ordinance, height maximums may not fall below those listed within Government Code section 65852.2, subdivision (d)(1). Top plate requirements are local design standards which may not be applied to ADUS created under Government Code section 65852.2, subdivision (e).
 - a. See Height Limits below (Table 17.10-C):
 - b. Plate Heights are a (objective) height standard as described in the city's LCP and may be imposed pursuant to section 66314; also see Table 17.10-C from the implementation plan.

Section 66314: *"A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following: (b) (1) 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. These standards shall not include requirements on minimum lot size."*

As previously described: *The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics. (LUP)*

Coastal Act Section 30251:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed ..., to be visually compatible with the character of surrounding areas,

Coastal Act Section 30253.

New development shall do all of the following:

- e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.***

Not enforcing an (objective) plate height requirement for an ADU is not visually compatible with the character of the surrounding area (neighborhood/site) as provided in Section 30251 and 30253 of the Coastal Act as this is not permitted as part of the LCP and there are specific prohibitions against this. An objective plate height requirement does not preclude the establishment of an ADU in any manner. Rather, it ensures visual compatibility with the primary dwelling pursuant to Coastal Act Sections 30251 and 30253.

Refer to discussion in section 10.

B. Height Limits. The following height standards apply to the R-1 district. Where conflicts between two or more of these standards occur, the more restrictive limits shall apply.

Table 17.10-C: Maximum Height Standards			
	R-1 District	R-1-BR District	R-1-PO District
Number of Stories Allowed	2	2	1*
Roof Height of First Story (in feet)	18	18	18
Plate Height of First Story (in feet)	12	12	12
Roof Height of Second Story (in feet)	24	18	24*
Plate Height of Second Story (in feet)	18	18	18*

* See CMC 17.20.100, Required Planning Commission Review, and CMC 17.20.110, Review Criteria.

7. 17.ADU.030 (E)(1) – *Setbacks, Single Family* – The front setbacks are a requirement for ADUs, directly in conflict with the provisions for an 800 square foot unit as described in Government Code section 65852.2, subdivisions (c)(2)(c), and (e). Side and rear setbacks may not be greater than 4 feet for any new construction ADUs pursuant to Government Code section 65852.2, subdivision (a)(1)(D)(vii).

DRAFT – DRAFT –75% version; for Planning Commission Workshop on November 13, 2024 – edits as of November 7, 2024

- a. Minimum side and rear setbacks are three (3) feet –less restrictive than as required in subdivision (a)(1)(D)(vii); conversions are addressed in section 17.ADU.030(2) and complies with the subject requirements –no setback required except for 150 sf ingress/egress addition which shall comply with 3' setback. Additionally, the composite setback requirement is proposed to be waived for detached ADUs (refer to Table 17.10-A).
- b. Additional setbacks may be required pursuant to LCP/CDP requirements specially called out within the overlay chapters on a site/project specific basis. Examples include (but are not limited to):
 - i. in the Beach/Riparian Overlay:
 - A setback of at least 15 feet shall be maintained along any property line facing the beach (CMC 17.20.160.B.4).
 - New structures shall be set back a sufficient distance from any bluff top to be safe from bluff erosion for a minimum of 100 years as determined by a site-specific geology report, prepared in compliance with CMC 17.20.170(B), Geology Report; provided, that in no case shall the minimum setback be less than 25 feet (CMC 17.20.160.B.9.a).
 - ii. in the Environmentally Sensitive Habitat Overlay:
 - New development shall be setback from the upland edge of riparian vegetation a minimum of 100 feet, except as provided in subsection (F)(2)(b) of this section, and as follows (CMC 17.20.220.F.2).
 - Coastal development permit approval may include the reduction of a minimum riparian setback if the City first makes the findings required by subsection (F)(2)(a) of this section, and all the following findings; provided, that in no case shall structures be allowed closer than 30 feet from a stream bank (CMC 17.20.220.F.2.b).

Requirements clarified in new Coastal Resource Protection Section - 17.ADU.080

- c. Front setback required for LCP consistency and is an objective design standard. Allowing up to an 800 square foot structure in the front setback is not visually compatible with the character of the surrounding area (neighborhood) as provided in Section 30251 and 30253 of the Coastal Act as this is not permitted as part of the LCP and there are specific prohibitions against this.

As previously described: The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics. (LUP)

Section 30251:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed ..., to be visually compatible with the character of surrounding areas,

Section 30253.

New development shall do all of the following:

- f) *Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*
- i. Applicable Land use plan policies include (**emphasis added in bold**):
- **P1-38:** Each site shall contribute to neighborhood character including the type of forest resources present, **the character of the street**, the response to local topography and **the treatment of open space resources such as setbacks and landscaping**. It is intended by this policy that diversity in architecture be encouraged while **preserving the broader elements of community design that characterize the streetscape within each neighborhood.** (LUP)
 - **P1-40:** Residential designs shall maintain Carmel's enduring principles of modesty and simplicity and preserve the City's tradition of simple homes set amidst a forest landscape. **Buildings shall not present excess visual mass or bulk to public view** or to adjoining properties. Buildings shall relate to a human scale in their forms, elements and in the detailing of doors, windows, roofs, and walkways. **Oversized design elements make structures appear dominating and monumental. This out-of-scale character represents a poor fit to the human form, vitiates the more intimate, rural charm and village character of Carmel-by-the-Sea and should be avoided.** (LUP)

A. Setbacks. Minimum building setbacks shall conform to the standards in Table 17.10-A: Setback Standards for R-1 District.

Lot Type	Front Setback (in feet)	Rear Setback* (in feet)	Side Setbacks		
			Composite** (both sides)	Minimum Setbacks (in feet)	
				Interior Side	Street Side
Interior Site	15	15	25% of site width	3	N/A
Corner Site	15	15	25% of site width	3	5
Resubdivided Corner Site	10	15	25% of site width	3	5
Double-Frontage Site	15	N/A	25% of site width	3	5 (if applicable)

* The rear setback is three feet for those portions of structures less than 15 feet in height.

** See CMC 17.10.030(A)(1) and 17.06.020, Rules of Measurement.

8. 17.ADU.030 (F) – *Parking, Single Family* – Parking required within Coastal Access Parking Areas. This is in conflict with Government Code section 65852.2, subdivisions (a)(1)(D)(x), and (d)(1), which detail how any off-street parking that may be required may be situated, as well as several exemptions to parking standards regardless of zoning or districts.
- a. The Coastal Commission has opined in a 2021 memo titled [Updates Regarding the Implementation of New ADU Laws](#) that key issues that the Commission has dealt with recently include public coastal access parking requirements and protection of sensitive habitats and visual qualities.

The memo cites the requirements of Government Code Section 65852.2. In response to the requirements of pertaining to parking outlined in Government Code Section 65852.2, the memo states:

The potential outcome is that private residential J/ADU parking needs can be shifted onto adjacent public streets. At the same time, the Coastal Act contains objectives and policies designed to protect and provide for maximum coastal access opportunities, which includes maintaining sufficient public coastal parking, including as implemented through LCP off-street parking provisions. The addition of J/ADUs may interfere with coastal public street parking availability if, for example, a garage is converted to a J/ADU and parking is not replaced onsite, in addition to the J/ADU parking demand itself. The Commission has often found that when private residential parking needs are not accommodated onsite, it can lead to increased use of on-street parking to address such needs, thereby reducing the availability of on-street parking to the general public. This may adversely affect public coastal access if it occurs in high visitor-serving areas and/or areas with significant public recreational access opportunities, and where on-street parking is heavily used. The result will be that the general public could be displaced from on-street parking by J/ADU parking needs, which may violate the Coastal Act's requirements to protect, provide, and maximize public coastal access and recreational opportunities. In many impacted coastal neighborhoods, development patterns over the years have not adequately accounted for off-street parking needs, and adding J/ADU parking to the mix will only exacerbate such public parking difficulties. Additionally, because general on-street parking is typically free or lower cost compared to other public parking facilities, J/ADU construction may also interfere with maintaining lower cost coastal access for all.

The city's Circulation Element, part of the Land Use Plan, include specific Objectives, and Policies to address the concerns noted above.

02-5 Require that all new developments provide sufficient off-street parking facilities. (LUP)

P2-26 Adopt and enforce off-street parking and loading regulations that incorporate realistic requirements based on broad categories of land use as well as the amount of floor space and location of the property. Apply these requirements for all new development and for changes in use that will result in increased parking demand. (LUP)

In addition to the Coastal Access and Recreation Element which also speaks directly the issue of coastal parking. The Coastal Access and Recreation Element states (emphasis added in **Bold**):

*Implementation of Coastal Act public access requirements focuses on two types of access: vertical and lateral. Vertical access provides routes from the “nearest public roadway to the shoreline.” Lateral access is along the shoreline, typically immediately adjacent to a sandy beach or rocky inter-tidal zone, at the top of a bluff or otherwise above the high tide line, where pedestrians may walk along the coast without being affected by waves or any safety hazards presented by bluff edges. **Parking facilities near the beach also is a local access issue. (LUP)***

And states further that:

Parking demand exceeds supply especially on busy weekends days and during the summer season. During these times, competition for parking at the Ocean Avenue/Del Mar Avenue beach lot and the public parking spaces along Scenic Road reaches a peak and spills over into the on-street parking in adjacent residential neighborhoods. Demand for public parking and access to the beach typically wanes in the late afternoon. The City controls beach parking through design, dispersal and by regulating parking time limits. In public workshops the congestion at the Del Mar parking lot was identified as a problem that should be addressed. Policies in this land use plan support development of a master plan that includes a redesign of this area to improve circulation, reduce congestion, protect sensitive resources and enhance visual character. (LUP)

The Coastal Commission has found that:

In order to avoid conflicts regarding parking requirements for J/ADUs as they may impact public access, local governments are encouraged to work with Commission staff to identify or map specific neighborhoods and locations where there is high visitor demand for public on-street parking needed for coastal access and to specify parking requirements for each such area that harmonizes Government Code requirements with the Coastal Act (and any applicable LCP policies). These maps can denote areas that supply important coastal public parking and access opportunities, and require that J/ADU development in these areas ensure that

private residential parking needs are accommodated off-street. Importantly, such upfront LCP mapping and provisions allow the local government to address impacts to public access and parking supply without the need for a protracted, or even necessarily a discretionary, decision. The Commission has previously found that local governments may include specific off-street parking requirements for J/ADUs constructed in these locations and may also require maintenance of all off-street parking for the primary residence (see examples below). However, harmonizing the distinct priorities between the Coastal Act's protection of public coastal access and the J/ADU provisions on parking requirements will require a case-by-case consideration of the specific circumstances of each jurisdiction.

The City has proposed a "Coastal Access Parking Area" identify or map specific neighborhoods and locations where there is high visitor demand for public on-street parking needed for coastal access, as identified in the city's LCP.

The Coastal Access Parking Area is proposed to include all properties located within the Beach and Riparian (BR) Overlay District located west of the centerline of Carmelo Street and west of the centerline North San Antonio Street, as well as all properties with street frontages located on San Antonio Avenue or North San Antonio Avenue, proposed in the city's draft ordinance. Staff also recommends the inclusion of properties commercially zoned as these zone districts have the highest visitor demand for public on-street parking, in addition to the area immediately adjacent to the beach.

Requirements clarified in new Coastal Resource Protection Section - 17.ADU.080.C.2

9. 17.ADU.040 (F)(3) – *Non-conforming status, Single Family* – Loss of parking results in a nonconforming status. This is in conflict with Government Code section 65852.2, subdivisions (a)(1)(C) and (a)(11), which state that an ADU does not exceed the allowable density for the lot, and is consistent with the zoning designation on the lot.
 - a. CMC 17.ADU.040(F)(3) is not related to allowable density of the primary dwelling nor ADU. The purpose of this section is to notify owners/applicants of other provisions/requirements of the municipal code/LCP that may occur if parking is not replaced (see section b, below).
 - b. If parking is voluntarily eliminated, which may occur, the site becomes non-conforming because the primary dwelling no longer has conforming parking. A Coastal Development Permit or other permit approval cannot be issued for the primary dwelling if there is no on-site parking (see CMC 17.10.030.F.2.d). This provision is intended to notify the applicant of potential risk of not replacing parking in accordance with CMC 17.ADU.070.2.c.
 - i. Refer to Section #8 above for how parking for a primary dwelling is required for LCP consistency.

- c. **CMC 17.10.030.F.2.d:** *Developed building sites not meeting parking standards shall be considered nonconforming. No building permits authorizing any demolition, floor area addition or increase in exterior volume exceeding two percent of allowed volume shall be issued unless one or more of the following applies:*
- i. *The proposed plans for construction will achieve compliance with all parking standards; or*
 - ii. *The building permit is for repairs only, or is for alterations involving no expansion of floor area and the valuation of the work would not exceed 25 percent of current construction costs for replacement of the building.*

Note: This provision does not apply to the establishment of an ADU; an ADU could be added to a site if parking requirements are not met. However, if parking is eliminated from a site, future development of the site may be limited.

10. 17.ADU.030 (G) – *Design Standards, Single Family* – Design standards apply to all ADUs. However, this is in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards.

- a. Local design standards are required for LCP consistency.

As previously described: *The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics. (LUP)*

Section 30251:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed ..., to be visually compatible with the character of surrounding areas,

Section 30253.

New development shall do all of the following:

- g) *Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Not enforcing an design standards for an ADU is not visually compatible with the character of the surrounding area (neighborhood/site) as provided in Section 30251 and 30253 of the Coastal Act as this is not permitted as part of the LCP and there are specific prohibitions against this. The use of Design Standards does not preclude the establishment of an ADU in any manner. Rather, it ensures visual compatibility with the primary dwelling pursuant to Coastal Act Sections 30251 and 30253.

While current design guidelines are discretionary, the proposed standards for all Type 1 and Type 2 ADUs are proposed to be objective. Type 3 ADUs would use discretionary Residential Design Guidelines.

- i. P1-46: Require design review of proposed developments in the residential districts that are near designated parkland or that involve sever slopes, large structures or unusual design to protect the character of individual neighborhoods and avoid inharmonious or out-of-scale development. (LUP)
- ii. P1-47: Apply the City's Residential Design Guidelines that explain the qualities that are characteristic of the community to assist in the preparation and approval of plans for residential development through the design review process. Include provisions for scale, mass, bulk, height, setbacks, open space, landscaping, exterior materials, lighting and community character. Establish procedures for using the guidelines that will allow flexibility and creativity in architectural expression yet maintain continuity in the design character of the residential district. (LUP)
- iii. P1-51: Consider the effect of proposed residential construction on the privacy, solar access and private views of neighbors when evaluating design review applications. Avoid designs that are insensitive to the designs of neighboring buildings. Attempt to achieve an equitable balance of these design amenities among all properties affected by design review decisions. (LUP)
- iv. Also see CMC 17.10.010, Purpose and Design Objectives.
 - *The purpose of this chapter is to establish standards and requirements for physical development in the R-1 single-family residential district. To implement the General Plan and the Coastal Land Use Plan, the following design objectives for the R-1 district are established...*

11. 17.ADU.040 (A) – JADUs, Multifamily – Allows for JADUs in Multifamily. Pursuant to Government Code section 65852.22, subdivision (a), JADUs may only be permitted within single-family residential zones.

- a. This has been clarified. See CMC 17.ADU.040.A.3.

12. 17.ADU.040 (A)(1)(b), (A)(2) – *Number, Location, Multifamily* – Requires ADUs to be detached from all accessory structures. This is in conflict with Government Code section 65852.2, subdivision (e)(1)(D), which explicitly states that the two, detached ADUs are only detached from the multifamily dwelling, not any other structure. This section also does not allow for attached ADUs pursuant to Government Code section 65852.2, subdivision (a)(1)(D)(iii). Finally, the entirety of section 17.ADU.040 excludes proposed multifamily developments from creating ADUs. ADUs are allowed concurrently with proposed multifamily dwellings, pursuant to Government Code section 65852.2, subdivisions (a)(1)(D)(iii) and (e)(1)(D).

- i. *Requires ADUs to be detached from all accessory structures. This is in conflict with Government Code section 65852.2, subdivision (e)(1)(D), which explicitly states that the two, detached ADUs are only detached from the multifamily dwelling, not any other structure.*
 - Clarified in CMC 17.ADU.A.1.b.ii
- ii. *This section also does not allow for attached ADUs pursuant to Government Code section 65852.2, subdivision (a)(1)(D)(iii).*
 - There appears to be no provision that states attached units are required on multi-family sites¹⁶. “Multifamily dwellings” are identified distinctly different from “primary dwelling” and “single family dwellings” throughout the state statute.
- iii. *Finally, the entirety of section 17.ADU.040 excludes proposed multifamily developments from creating ADUs. ADUs are allowed concurrently with proposed multifamily dwellings, pursuant to Government Code section 65852.2, subdivisions (a)(1)(D)(iii) and (e)(1)(D).*
 - CMC 17.ADU.040.A.1.b allows existing and proposed.

13. 17.ADU.040 (B) – *Floor Area, Multifamily* – Floor Area is restricted to the limits of other sections of the code, in conflict with Government Code section 65852.2, subdivisions (a)(7), (c)(2)(C) and (e)(1)(D). Subdivision (a)(7) states that no other ordinance, policy or regulation shall be the basis of the delay or denial of an ADU permit, while (c)(2)(C) and (e)(1)(D) detail ADUs which may not be restricted by lot coverage, density, or floor area allowances.

- a. Refer to discussion in section #2. Revised for consistency with response to Comment #2.

14. 17.ADU.040 (D) – *Height, Multifamily* – Height is restricted to 18ft, in contrast to (c)(2)(D)(iii), which allows for an additional two feet in height to match roof pitch, and (c)(2)(D)(iv) which allows up to 25ft or the limitation on the primary.

- a. No change proposed to draft ordinance. The city does not have a major transit stop or a high-quality transit corridor Section 21155 of the Public Resources Code within one-half mile walking distance.

¹⁶ “Under the California Government Code 65852.2 (e)(1)(D), only detached ADU units are permitted on a duplex lot.” –Coastal Commission Staff Report; Th20a; A-6-DMR-23-0022

- b. Carmel Bus Lines within ½ Miles: Monterey Salinas Transit (MST) Routes 5, 91, 94
 - i. Max Frequency at any time (peak/non-peak): ½ - Hour (5); 2-Hours (91, 94)
15. 17.ADU.040 (F) – *Parking, Multifamily* – Parking requirements are required within Coastal Access Parking Areas. This is in conflict with Government Code section 65852.2, subdivisions (a)(1)(D)(x), and (d)(1), which detail how any off-street parking that may be required may be situated, as well as several exemptions to parking standards regardless of zoning or districts.
- a. Refer to discussion in Section #8. No parking is required in multi-family. Coastal Parking Area is a conditional, if.
16. 17.ADU.040 (F)(3) – *Non-conforming status, Multifamily* – Loss of parking results in a nonconforming status. This is in conflict with Government Code section 65852.2, subdivisions (a)(1)(C) and (a)(11), which state that an ADU does not exceed the allowable density for the lot, and is consistent with the zoning designation on the lot.
- a. Refer to discussion in Section #9.
17. 17.ADU.040 (G) – *Design Standards, Multifamily* – Design standards apply to all ADUs. However, this is in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards.
- a. Refer to discussion in Section #10.
 - i. O1-10 Apply design regulations for the commercial district that will protect its established character while supporting the land uses contained therein. (LUP)
 - ii. P1-63 Protect the special and unique character of Ocean Avenue and the surrounding commercial area. Ensure, through the administration of land use and design regulations, that the architecture, landscape, scale and ambience of this area is maintained. (LUP)
 - iii. P1-66 Retain the scale and variety of design established in the retail core when considering changes to buildings that are not historic. Protect, preserve and rehabilitate historic commercial architecture that represents the character, ambience and established design context of the commercial area. (LUP)
 - iv. P1-67 Preserve all existing courtyards in the core of the commercial district as a distinctive architectural feature of the City's pedestrian-oriented retail area. Encourage the establishment of new courtyards and intra-block walkways. (LUP)

- v. P1-68 Implement design regulations and design guidelines to ensure that buildings and storefronts in the retail core maintain the design features characteristic of this area including appropriate scale, minimal setbacks, attractive landscaping and consistency in the treatment of windows, awnings, exterior materials and building lines throughout each building. (LUP)
- 18. 17.ADU.050 (C) – *Shared Facilities, JADUs* – Requires that the sanitation facility be considered in the JADUs square footage, and that it be immediately accessible. This is in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards. It is also inconsistent with Government Code section 65852.22, subdivision (a)(5)(B), which only requires an interior entrance to the main living area.
 - a. This is not a design standard. This is ensure the unit is 500 square feet or less and is accessible (i.e. usable) to the JADU pursuant to the requirements of the government code section and the building code.
- 19. 17.ADU.050 (F) – *Parking, JADUs* – Replacement parking is required when a JADU is converted from a garage, and that parking must comply with the requirements of the underlying zoning district. However, Government Code section 65852.22 states that additional parking shall not be required. No off-street parking requirements are required to be covered.
 - a. The replacement parking noted in the proposed ordinance is for the primary dwelling, not for the JADU. There is also no requirement that parking is covered –parking in the R-1 district may be provided by garage, carport, or parking pad.

From [July 2022 HCD ADU Handbook](#) (page 24): “Please note that JADUs created in the attached garage are not subject to the same parking protections as ADUs and could be required by the local agency to provide replacement parking.”
- 20. 17.ADU.060 (A), (B) – *Design Review* – Administrative standards must be included within the ADU ordinance, as no other ordinance, policy or regulation may be used in the evaluation of ADUs per Government Code section 65852.2, subdivision (a)(7). This is also in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards. Additionally, “appearance” and “texture” are subjective terms with no means of uniform verification through an external benchmark, and therefore do not meet the definition of objective standards pursuant to Government Code section 65852.2, subdivision (j)(7).
 - a. Staff requires further direction from HCD regarding the above comment. It is unclear why a specific “pointer” within the ordinance to another ordinance/resolution/document is impermissible.
 - i. Separate document could include images, colors, figures, etc, that do not fit well within the structure of an ordinance.

- b. Local Design Standards for all ADUs, including subdivision (e) units, is required for LCP consistency – refer to section #10, above.

21. 17.ADU.070 (D) – *Tree Removal* – The ordinance states that no trees shall be removed, except in accordance with another section of the Municipal Code. Government Code section 65852.2, subdivision (a)(7) states that no other ordinance, policy or regulation shall be the basis of the delay or denial of an ADU permit. This is also in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards.

- a. Staff requires further direction regarding the above comment. It is unclear why a “pointer” to another ordinance does not function the same as reusing the text in the subject ordinance.

The city is not enforcing ADUs using another ordinance, policy, or regulation, but rather incorporating that specific language into ordinance by reference.

- b. Tree protection measures are included as part of the City’s LCP and are required for LCP consistency.

As described in the February 13, 2003 staff report for the adoption of the City’s Land Use Plan:

Carmel is one of those special communities for which Coastal Act section 30253 was written. Though much is made of the eclectic cottages in the forest and brilliant white sand beach, world-renowned shopping, proximity to Pebble Beach and gateway to Big Sur, the LUP does not designate Carmel a "special community" worthy of protection. Modification 27 acknowledges the significance of City's unique character and designates Carmel a special community and highly scenic area for the purposes of Coastal Act Sections 30251, 30253, and 30610 along with corresponding regulation 13250. This designation provides the basis for requiring coastal development permit review of development proposals that potentially impact historic and/or character resources.

*Other than **the need to protect character through implementation of land use and landscape policies**, the scenic views and resources of Carmel's beach, parks, and open space are adequately protected in the LUP...*

Associated LUP Policies associated with tree protection include, but are not limited to:

- i. P1-42 ...Minimize the extent of excavation and fill on a site to avoid adverse impacts on trees and ensure new development follows the natural contours of the site.

- ii. P1-44: Prohibit the removal of significant trees (as determined by the city forester) unless it would prevent a reasonable economic use of the site or pose a threat to health and safety. Locate buildings and other site structures to avoid removal and pruning and otherwise minimize damage to existing significant trees. Avoid impacts to trees by avoiding. Minimizing impacts to the root protection zoning identified by the city forester during the preliminary site assessment. Establish continuity of landscape elements throughout each neighborhood. Replace trees removed for construction with appropriate trees of the urbanized forest. Require that they be nurtured until well established.
- iii. All demolitions, rebuilds, remodels, and substantial alterations shall be consistent with the following findings:
 -
 - The Development does not require removal of any significant tree unless necessary to provide a viable economic use of the property or protect public health and safety. All buildings and structures will be setback a minimum of 6 feet from significant trees.
- iv. P1-50: Establish landscaping standards to preserve the urban forest of Monterey Pines, Monterey Cypress, Redwoods and Coast Live Oaks, and encourage informal gardens using native vegetation to maintain the natural character of open spaces in the residential areas. (LUP)
- v. P5-64 New development shall be sited and designed to avoid or minimize significant adverse effects to the forest. Avoid projects that significantly increase building footprint to the detriment of trees. No grading, compaction of soils, construction of building walls or placement of impermeable surfaces within six feet of trees classified as significant shall be permitted. (LUP)
- vi. P5-69 Require ample and appropriate landscaping and tree plantings on all sites. Determine what is appropriate for each site by consulting the recommended tree density as appropriate to each neighborhood. Special emphasis must be paid to construction sites. Required replacement trees shall be of substantial size, caliper and height to produce an immediate visual impact and to reduce the incidence of unauthorized removal. (LUP)
- vii. P5-70 Require a documented site assessment, or meeting between a planner, City Forester, and the property owner/developer, on each proposed construction site to discuss tree preservation and planting. Establish tree protection zones and suitable locations for development through this process. This shall be done before plans have been drawn. (LUP)

- viii. P5-71 Evaluate, protect and preserve all trees (and their root zones) on sites prior to, during, and after construction. Ensure that all building sites abide by appropriate tree protection and preservation standards and guidelines provided in the Forest Management Plan. (LUP)
22. 17.ADU.070 (E)(1)(c) – *Fire Sprinklers* – Requires fire sprinklers for the addition of space for an attached ADU. This requirement is in direct conflict with Government Code section 65852.2, subdivision (a)(1)(D)(xii), which states that the construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
- a. Revised; “including addition to ADU” was not intended to mean the ADU was the additional square footage, rather, there is an addition to the SFR which triggers sprinklers to the SFR and an ADU is also proposed at the same time.
23. 17.ADU.070 (E)(2) – *Constructed Concurrently* – Requires that an ADU shall be considered “concurrent” if the building permit is issued within two years. This requirement is in direct conflict with Government Code section 65852.2, subdivision (a)(3)(A), which details the ministerial processes for the approval or denial of an ADU based upon whether or not there is an existing primary dwelling on the lot. Additionally, Government Code section 65852.2, subdivision (j)(10) defines “proposed dwelling” as “a dwelling that is the subject of a permit application and that meets the requirements for permitting...” regardless of the status of any other structure on the lot, including when, or if, those structures had been permitted.
- a. The definition for “constructed concurrently” is defined solely and expressly for the purpose of the fire sprinkler requirements and is based on a finding made by the Building Official/Fire Code Official for health, safety, and welfare.
 - i. **CMC 17.ADU.070.E. For purposes of this subsection (1)(b), the term “constructed concurrently” shall mean construction of a primary dwelling unit that is performed in reliance on a building permit issued within two (2) years of the date of issuance of a building permit for construction of an ADU.**
24. 17.ADU.070 (L) – *Overlay Districts* – Overlays may not be used to restrict ADU construction where residential uses are permitted pursuant to Government Code section 65852.2, subdivision (a)(1)(A). A local agency may only designate areas where ADUs may be constructed based upon the adequacy of water and sewer services, traffic flow, and public safety. Review must remain ministerial and free of discretionary processes. This is also in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local development standards.
- a. The existing overlays are required for LCP consistency. Land Use Plan Policy P1-108, P5-44, P5-45, P5-103.

The overlays identified in the policies above are related to Archeological Resources, Environmentally Sensitive Habitat Areas, and protection, enhancement, and conservation of parks, open spaces, and beach lands. Additional overlays exist within CMC 17.20, however, are only used to identify minimum lot sizes for the purposes of subdivision and would not be applicable to development of an ADU.

Protection of Archeological Resources is required by [Coastal Act Section 30244, Archaeological or Paleontological Resources](#). Accordingly to the Land Use Plan:

Archaeological resources from both the prehistoric period and the early historic period can be found in Carmel. Before establishment of the Carmel Mission and subsequent ranching and settlement by Europeans native populations occupied the coastal area of Monterey. During this pre-history period, the Carmel Area provided food and materials for the Costanoan/Ohlone culture. The establishment of the Carmel Mission and the early years of European settlement marked a new period that also is important to an understanding of the cultural development throughout the Carmel region as well as California...

It should be kept in mind that archaeological resources pertaining to the Native American, Spanish and Mexican eras also could be buried in the previously built out areas of the City. Early buildings tended to have a smaller impact on the landscape than modern buildings. Consequently, there is a potential for archaeological resources to have survived intact under buildings, roads, and other features of the landscape.

General areas of archaeological significance are shown in Figure 1.4. Policies to protect these resources are included in this Element. (LUP)¹⁷

Figure 1.4, referenced above, is commensurate with the adopted Archeological Significance (AS) Overlay District as depicted on the city's zoning map.

As described in a Coastal Commission [staff report dated November 21, 2002](#) for the consideration of the adoption of the city's LCP, the topic of Archeological Resources were described as follows (emphasis added in **Bold**):

This aspect of community character has likewise been adequately addressed in the City's LUP policies. The plan calls for the creation of an archaeological overlay district and standard reporting format for all archaeological documentation (P9-86). All development within the overlay is required to perform a phase 1 study to determine if significant

¹⁷ Carmel General Plan – Land Use and Community Character – Pages 1-25

*archaeological resources are present (P9-87). If sensitive resources are found on a site, all available measures to avoid development shall be pursued (P9-88). The remaining policies require mitigation for impacts incurred during construction, monitoring, safe retrieval, collection and archiving, or preserving in-situ of all identified archaeological resources. All archaeological resource reports are to be transmitted to the Northwest Information Center as designated by the State Office of Historic Preservation (P9-89, 90, 91). As submitted, **the archaeological resource protection measures and policies in the re-submitted Land Use Plan are consistent with Coastal Act Section 30244 for the protection of archaeological resources.**^{18 19}*

The city's policies on archeological resources have even been cited by the Coastal Commission as an example of a certified LUP for Planning and Locating New Development and Archaeological/Cultural Resources, as noted in their [July 2013 LCP Update Guide](#)²⁰.

No new overlays are proposed as part of the ADU ordinance.

25. 17.ADU.070 (M) and 17.ADU.090 (G) – *Historic* – Only Historic Resources on the California Register of Historical Resources may have additional, objective standards applied. Local Historic Preservation provisions may not apply to ADU development pursuant to Government Code section 65852.2, subdivision (a)(1)(B)(i). Additionally, no other ordinance, policy or regulation may be used in the evaluation of ADUs per Government Code section 65852.2, subdivision (a)(7).

- a. The ADU statute provide that cities may impose standards on ADUs “that include, but are not limited to” standards to prevent adverse impacts to property listed in the California Register of Historic Places. (Gov. Code 65852.2 subd. (a)(1)(B)(i).)

The proposed requirement to comply with the city's historic preservation ordinance is consistent with the State laws because in order to qualify as a local historic resource, a property must be included in, or eligible to be included in, the California Register of Historic Places (CMC 17.32.040.C; 17.32.060.C.3.b; 17.32.230.N.3). As such, only those properties which are or could be included in the California Register of Historic Places are subject to the City's historic preservation requirements and only those ADUs that impact such properties are subject to the City's historic preservation requirements.

If an ADU application proposes to alter a property on the City's inventory of historic resources, the City may impose standards regulating alteration of historic resources set

¹⁸ Coastal Commission Staff Report; City of Carmel-by-the-Sea: Land Use Plan Re-submittal (3rd); November 21, 2002

¹⁹ Staff Note: The numbering of the policies referenced in the staff report and the adopted LUP differ, but the language of the subject policies remains unchanged.

²⁰ LCP Update Guide; Section 6; Planning and Locating New Development and Archaeological/Cultural Resources; California Coastal Commission; July 31, 2013

forth in CMC 17.32.120-170. In keeping with Government Code section 65858.2, the City's accessory dwelling unit ordinance seeks to protect properties eligible for and on the California Register of Historic Places (see 17.32.040.C; 17.32.060.C.3.b; 17.32.230.N.3). Pursuant to the City's historic preservation ordinance, properties on the City's inventory of historic resources shall be subject to the standards related to alteration of a historic resource (See CMC 17.32.120-170.). Pursuant to the City's accessory dwelling unit ordinance, ADUs that propose to alter a property on the City's inventory of historic resources shall also be subject to the standards for alteration of a historic resource. This provision is consistent with the State ADU.

This is also required for LCP consistency. Land Use Plan Goal G1-4 specifically addresses Historic Preservation as well as Objectives O1-14 to O1-18, in addition to Policies P1-83 to P1-113.²¹

As described in the Land Use Plan, *"Although the Coastal Act does not specifically discuss historic preservation, this topic is related to the preservation of character required by sections 30251 and 30253 of the Act."*²²

This fact was argued by Coastal Commission staff in a [staff report dated November 21, 2002](#) for the consideration of the adoption of the city's LCP. The staff report stated, in part (emphasis added in **Bold** and underline):

Carmel is one of those special communities for which Coastal Act section 30253 was written. Though much is made of the eclectic cottages in the forest and brilliant white sand beach, world-renowned shopping, proximity to Pebble Beach and gateway to Big Sur, the LUP does not designate Carmel a "special community" worthy of protection. Modification 27 acknowledges the significance of City's unique character and designates Carmel a special community and highly scenic area for the purposes of Coastal Act Sections 30251, 30253, and 30610 along with corresponding regulation 13250. This designation provides the basis for requiring coastal development permit review of development proposals that potentially impact historic and/or character resources.

A separate discussion of the staff report notes (February 13, 2003):

The Commission recognizes that the loss of the City's historic cottages has the potential to adversely impact community character and thus the recreational opportunities represented by them. Coastal Act section 30253(5) requires that special communities such as Carmel be protected

²¹ Carmel General Plan – Land Use and Community Character – Pages 1-43 to 1-50

²² Carmel General Plan – Land Use and Community Character – Page 1-21

against the erosion of its character through policies that guide development and redevelopment in a manner consistent with the established character of the village.

In particular, demolition and/or substantial alteration of existing historic homes and cottages result in the loss of the unique character, which they individually represent and which cumulatively, form an important part of Carmel's character. Once a house has been modified, its character is forever changed -replaced by something that may or may not be consistent with the established character of the block, neighborhood, or City. As discussed in the Character Resources section above, the volume of requests for demolitions in recent years has increased substantially, leading to concerns that the character of the community may be slipping away.

As briefly summarized above (prior section of referenced staff report), Carmel's resubmitted LUP contains a comprehensive set of historic resource policies design to promote the identification and preservation of historic resources including buildings, structures, objects, sites, districts, and archaeological resources (discussed in section 4 below). The primary objectives of the historic preservation element (policies) are:

- Identify and preserve historic resources;*
- Incorporate historic preservation principles into the City's design review process*

Although, the policies in the resubmitted LUP provide an initial framework for establishing a historic preservation program, they do not adequately achieve the objectives identified above consistent with 30253 of the Coastal Act. Modifications necessary to bring the historic resources element into conformity with 30253 are discussed below.²³

The staff report then continues to discuss the proposed modifications to the LUP recommended by Coastal Commission staff.

Additionally, at the February 13, 2003 Coastal Commission hearing, Historic Preservation was continued to be discussed as the matter was not previously resolved at the prior hearing. The February 2003 staff report describes that:

²³ Coastal Commission Staff Report; City of Carmel-by-the-Sea: Land Use Plan Re-submittal (3rd); November 21, 2002

The Land Use Plan has a series of policies designed to protect Carmel-by-the-Sea's historical structures, which are a significant component of the City's overall community character. Generally, these policies define what is historic and limit the amount of alterations that could occur to these structures. However, the Land Use Plan is deficient in describing key components of the identification process and in ensuring that all identified resources are subject to the appropriate regulatory policies, thereby, not assuring that all significant historical structures will be protected. Therefore, modifications are suggested with regard to the Historical Preservation Board, the Carmel Inventory of Historic Resources, the City's Historic Context Statement, the site inspection process, the California Register of Historic Resources criteria, and the development review process.

The report continues to describe (emphasis added in **BOLD**):

*The Commission recognizes that the loss of the City's historic cottages and houses has the potential to adversely impact community character and thus the recreational opportunities represented by them. **Coastal Act section 30253(5) requires that special communities such as Carmel be protected against the erosion of its character through policies that guide development and redevelopment in a manner consistent with the established character of the village.***

*In particular, demolition and/or substantial alteration of existing historic homes and cottages may result in the loss of the unique character, which they individually represent and which cumulatively, form an important part of Carmel's architectural evolution and character. Once the **character defining features**²⁴ of a house has been modified, its character is forever changed - replaced by something that may not retain substantial architectural integrity. Additionally, the design modification may not be consistent with the established character of the block, neighborhood, or City. As discussed in the Character Resources*

²⁴ “The Secretary of the Interior's "Standards for Historic Preservation Projects" embody two important goals: 1) the preservation of historic materials and, 2) the preservation of a building's distinguishing character. Every old building is unique, with its own identity and its own distinctive character. Character refers to all those visual aspects and physical features that comprise the appearance of every historic building. Character-defining elements include the overall shape of the building, its materials, craftsmanship, decorative details, interior spaces and features, as well as the various aspects of its site and environment” – Preservation Brief #17; Architectural Character: Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character; Lee H. Nelson, FAIA. U.S. Department of the Interior.

section above, the volume of requests for demolitions in recent years has increased substantially, leading to concerns that the character of the community may be slipping away.

As adopted, the LUP and IP (zoning code) provide policy direction and implementation measures to achieve consistency with Public Resources Code sections 30251 and 30253.

The proposed code language related to ADUs would utilize the same policy and implementation measure through the review of the associated Coastal Development Permit prior to, or concurrent with, the approval of the building permit for the establishment of an ADU, except that no public hearing would be held for the application when the scope of work is limited to the establishment of the ADU. The ordinance, as proposed, gives the decision making authority to the Director of Community Planning and Building based on the recommendation of a qualified professional, as required by the policies of the Land Use Plan and Implementation Plan (Type 2 ADU).

26. 17.ADU.070 (O) – *Non-Conforming Site Coverage* – Non-conforming zoning conditions on the site may not be reason for delay or denial of an application for an ADU pursuant to Government Code section 65852.2, subdivisions (d)(2) and (e)(2), Which state that nonconforming zoning conditions may not be a factor in ministerial reviews. Additionally, no other ordinance, policy or regulation may be used in the evaluation of ADUs per Government Code section 65852.2, subdivision (a)(7).

- a. This is required for LCP consistency and only applies to hardscape (ground cover, walkwalks, etc) –not other structural non-conformities on the site (see CMC 17.ADU.070(V)). Site coverage is defined as: *The total ground area of a site occupied by materials or improvements that cover the natural soil but which are outside the perimeter of structures that count as floor area.*

The city does not have a “building coverage” standard for the single-family residential districts (used exclusively in the commercial districts). There is floor area (inside the walls) and site coverage (outside the walls). These are two separate standards and are calculated independent of each other.

LUP Policy **P1-49** states: *Total site coverage (structural and other impermeable coverage) on 4,000 square foot lots shall not exceed 55% of the site.*

One of the ways in which this policy is implemented is in CMC 17.10.030.C.2, which states:

Sites not in compliance with site coverage limits shall not be authorized to increase site coverage. Sites with excess coverage may add floor area consistent with subsection (D)(3) of this section, Exterior Volume, only when:

- a. *The site complies with the R-1 district tree density provisions established in CMC 17.48.080(A) and all existing and new trees have sufficient space to protect the root zones and provide for new growth; and*
- b. *Excess site coverage will be reduced at a rate equal to two times the amount of floor area added to the site, or to an amount that complies with the site coverage limits, whichever is less.*

The goal of the proposed requirement is to align with the requirements of the implementation plan (IP). As described above, a reduction in site coverage at a rate equal to two times the amount of floor area added to the site, or to an amount that complies with the site coverage limits, whichever is less, would be required if the site does not comply with site coverage limits. Additionally, the tree density requirements, consistent with other provisions of the LCP (Policy P5-55, P5-69) would also need to be met.

Coverage plays an integral to the protection of coastal resources in the city. Because the city, has few formal street improvements or drainage systems, *the “urbanized” forest also serves to convey runoff from the watershed to the beach and Carmel Bay through a variety of natural drainages, swales, and creeks. The forest performs the important functions of absorbing water from the soil, reducing runoff, filtering pollutants, and minimizing erosion. As such, the “urbanized” forest reduces the amount of polluted runoff and in large part, helps the City comply with the National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water permit regulations.*²⁵

The Land Use Plan further described that *as existing homes are rebuilt or enlarged their connection to roads and impact on drainage often changes. Larger homes cover more site area with impermeable surfaces causing more runoff... Urban drainage carries pollutants to Carmel Bay, an Area of Special Biological Significance and part of the Monterey Bay National Marine Sanctuary.*²⁶

The overall and simplified goal is to have as much storm water infiltrate on-site as possible and to re-vitalize the forest. However, if the nonconformities are not corrected at the time of construction, the optimal time to address nonconformities, sites may exist in a state that far exceeds the 55% coverage limit prescribed by the LUP. Addressing a nonconforming condition in accordance with the requirement described above may not in fact bring the site into conformance with the 55% permit limit, however, it does bring the site closer to the prescribed limit than it would be otherwise.

As discussed in section #2, above, *[The Coastal Commission staff report for the adoption of the city LCP] acknowledges that site coverage is but one component of the land use-water quality nexus, but it does underscore the importance of minimizing impervious site*

²⁵ Carmel General Plan – Coastal Resource Management – Page 5-6

²⁶ Carmel General Plan – Land Use and Community Character – Page 1-27

coverage overall. Should these nonconformities not be addressed, the potential impacts will continue to be exacerbated.

27. 17.ADU.070 (P) – *Interior Access* – Interior access is not permitted between a primary unit and an ADU. This is in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local development standards.

- a. Revised for allowance for “subdivision e” units.

28. 17.ADU.070 (T) – *Converted ADUs* – ADUs must be converted from legally permitted accessory structures. This is in conflict with Government Code section 65852.2, subdivisions (a)(1)(D)(vii), (d)(2), and (e)(1), and (e)(2). State ADU Law only requires that structures converted into ADUs be existing, regardless of whether they are legally permitted or not.

- a. No change has been made or is proposed. The city agrees with the position of HCD noted in the correction above. See section 17.ADU.070(V), which states: *The city shall not deny an application for a permit to create an ADU due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the ADU.*

The subject section 17.ADU.070 (T) only applies to the proposed **demolition and reconstruction** of an existing accessory within the exact same form and footprint. No provision exists that states a structure cannot be converted and/or maintained in its existing state.

ADU TYPES SUMMARY

Process	Additional Floor Area Allowance for ADU	CDP Required	Review Process
ADU Statute*	Up to 800 sf	-	Ministerial
LCP**	None	Yes, generally	Discretionary
Hybrid	Up to 800 sf	Varies	Varies

*Refers to ADU statute without respect to Coastal Zone (i.e. most cities not requiring special consideration due to LCP provisions).

** Refer to LCP process for typical development application.

Proposed Hybrid Process:

	Criteria	CDP Required	Review Process	Additional Comments/Notes
Type 1	a. The conversion of an existing, legally	No	1. Building Permit	Objective Design Guidelines

	established habitable space to a ADU and/or JADU within an existing primary dwelling, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure, and b. Not located in the Coastal Access Parking Area, located on the site of a Historic Resource, or located within the Beach and Riparian Overlay west of San Antonio Avenue or west of North Carmelo Avenue			
Type 2	1. Attached and detached ADUs which comply with within floor area limits of the site, and/or 2. Type 1 units located in the Coastal Access Parking Area, located on the site of a Historic Resource, or located within the Beach and Riparian Overlay, and/or 3. Units converted from nonhabitable space completely within the enclosing exterior walls of the structure from which	Yes	1. Administrative – Staff Level CDP 2. Building Permit	Objective Design Guidelines

	they are converted, and/or			
	4. Any unit not specifically classified as a Type 3 unit.			
Type 3	1. Any ADU which receives a floor bonus/exemption of up to 800 sf above the allowable floor area for the site for the construction of an ADU, and/or 2. Any new attached or detached ADU located in the Beach and Riparian Overlay District west of San Antonio Avenue or west of North Carmelo Avenue. 3. Any new ADU proposed concurrently, and reliant, on a new Track 2 application for a new dwelling, rebuild, or substantial alteration of a primary dwelling. 4. Any ADU for which the applicant requests deviation from adopted applicable standards	Yes	1. Standard CDP; Staff (Admin) or Commission (Standard) depending on scope. Follows city's standard review process as outlined in current Implementation Plan. 2. Building Permit	Residential Design Guidelines

How are ADUs streamlined under the 3-types of permits?

The 3 types of permits allow for streamlining and incenting of the development of ADUs and JADUs while ensuring impacts to Coastal Resources are not impacted. The three “tracks” of ADU review are tiered by the levels of potential impacts to coastal resources. Type 1 would have the lowest impact and Type 3 would have the greatest likely hood of impacting a resource and warrant a higher level of review.

Type 1 projects would generally involve no changes to the existing structure and therefore would not require a CDP (waiver provision is proposed) and therefore would only require a building permit. A waiver

DRAFT – DRAFT –75% version; for Planning Commission Workshop on November 13, 2024 – edits as of November 7, 2024

from any type of planning review is proposed provided objective design standards are followed for additions to windows and doors needed to facilitate a new unit -current city practice is to require a discretionary planning application for all exterior changes made to a residence. This proposed amendment would streamline current practice by eliminating a planning entitlement that would generally be required all together and only requiring a building permit. Alterations to the building could be made through the use of objective Design Guidelines in lieu of the existing discretionary Residential Design Guidelines.

While the July 2022 HCD ADU handbook, ADUs created under subdivision (e) of Government Code section 65852.2 shall not be subject to design and development standards except for those that are noted in the subdivision –only height and setbacks are noted. This requirement conflicts with the city's LCP which requires the application of "the City's Residential Design Guidelines that explain the qualities that are characteristic of the community to assist in the preparation and approval of plans for residential development through the design review process.

Type 2 projects are most similar to the type of ADUs described in the city's existing ordinance, CMC 17.08.050.G, in that the units much comply with all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of this chapter, including but not limited to height, setback, and floor area ratio. The current ordinance requires that detached units have a height of no more than twelve (12) in height and be no more than 600 square feet, for example, so the proposed ordinance would loosen current ADU regulations (CMC 17.08.050.G) to better align with the underlying zoning and the current provisions in the state statute. Type 2 ADUs would require an administrative CDP reviewed (at the staff level). Type 2 ADUs would also be compliant with the development standards and requirements outlined in the current LCP with the only necessary amendment being the proposed use of objective design guidelines and a waiver of public hearing.

The Type 2 incentives ADU development by allowing for the creation of an ADU within the floor area limits of a property without the need for public hearing as may otherwise be required for a smaller scope of work for an addition to the single family residence. For example: an applicant with an existing 1,500 square foot residence proposing a 150+ square foot addition to their home would be subject to the requirements of a Track 2 Design Study and required to receive approval by the Planning Commission. That same applicant could construct an ADU between 150-300 square feet with only an administrative CDP (any larger would become a Type 3 unit). The goal of the Type 2 unit is to incentivize a streamlined track for smaller ADUs which are consistent with the LCP, the underlying zoning for the site, and established community character. Type 2 ADUs strike a balance between the state statute requirements of the LCP and the Coastal Act.

Type 3 ADUs are ADUs that would conflict with the Goals, Objectives, or Policies of the city's LCP, or where potential impacts to Coastal Resources exist if not properly address. As previously stated, the goal of this ordinance is not to limit, preclude, or exclude ADUs in any manner, but to ensure consistency with the city's LCP. While other cities have precluded ADUs all together areas in area's such as Very High Fire Hazard Severity Zones, and other Coastal Cities have prohibited ADUs in Highly Scenic Areas, for example, this ordinance proposes nothing of the sort. Rather, this ordinance would allow for ADUs on all properties

with adequate utility services and relies on the expertise and authority of local decision makers to make findings to support project approval, just as with any other coastal project which may impact a coastal resource.

For example, the County of Mendocino has language within their ADU ordinances which expressly limits (and in some cases precludes) development within Highly Scenic Areas unless processed through a “administrative coastal development permit process”²⁷ which then points to another section of code which describes a subjective criteria to be reviewed through the CDP process. Other coastal cities allude to the requirement for compliance with the Coastal Act and the city’s LCP, however, again, Carmel maintains a unique challenge of being entirely within the Coastal Zone and entirely designated a special community and highly scenic area for the purpose of the Coastal Act.

While some coastal cities are partially located within the coastal zone and have the benefit of being able to draft an ordinance that is in full compliance with the state statute and incorporate a provision for not superseding the provisions of their LCP and the Coastal Act by reference (reference to Government Code Section 66329), Carmel is located entirely within the Coastal Zone and requires an ordinance which applies to all ADUs across the whole city. An ordinance that is fully consistent with the LCP would conflict with the state statute, and an ordinance that is consistent with the statute would conflict with the LCP.

Because of this, this hybrid model of ADU types/tracks has been proposed to ensure a harmonious approach to ADU development to the greatest extent feasible. Type 3, however, does rely on the most substantial deviations from both the current LCP and state statute, however, approval of a Type 3 ADU is supported in findings which ensures its development is consistent with the LCP, the Coastal Act, and the state statute. This approach is necessary consistent with the LCP in accordance with Government Code Section Government Code Section 66329:

Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

The Type 3 Track is supported by Government Code Section 66329, described above, as a Coastal Development Permit for an ADU would be required for the establishment of any unit which constitutes development. However, this specific type of development would be inconsistent under the LCP (as provided in Government Code Section 66329). The Type 3 track allows specific findings to be made by the city’s decision makers, consistent with standard city procedures, to review projects on a site specific basis to ensure there are no adverse impacts to the coastal resources described throughout this document.

²⁷ Mendocino County Code Section 20.458.045.C

In practice, a Type 3 ADU could be considered in the following manner. An applicant could propose up to an 800 square foot ADU above the floor area for the site, just as suggested in the state statute, however, this review would be completed through the city's standard Track 1/2 Design Study process depending on the scope of the project (and/or other Type 3 qualifier described above. This example uses additional floor area as an example). The additional 800 square feet above the floor area for the site would only be allocated to the ADU. An ADU is a principally permitted use for all ADU types (including type 3). This scope of work would conflict with Land Use Plan Policy P1-49 which expressly limits floor area on a building site and the policy was required for consistency with Coastal Act Section **30253**. The policy was supported by a finding by the Coastal Commission that larger homes have an adverse effects on drainage, water quality, site coverage, setbacks, massing, and the urban forest and that homes are no longer are subordinate to the natural environment but rather they become the dominant feature of the site, often overriding other features such as trees and topography²⁸.

The purpose of the discretionary review would be to ensure there are no impacts to Coastal Resources, including public and/or private views as a result of substantial additional massing on the building site (LUP P1-40). As part of a Design Study review, the appropriate decision making body is required to make the following findings listed in CMC 17.58.060.B. Findings for Design Review Approval and CMC 17.58.060.C. Additional Findings for Design Study Approval. Compliance with these findings would ensure that development is consistent with the LCP and the Coastal Act provided an exception is included for additional floor area is allowed for Type 3 ADUs.

The Commission has stated in their January 21, 2022 memo that (emphasis added in **Bold**):

*While the Commission does not currently have the explicit authority to provide or protect affordable housing in the coastal zone, the Commission has continued to preserve existing density and affordable housing whenever possible, including by supporting and encouraging the creation of [ADUs and JADUs]. **The creation of new [ADUs and/or JADUs] in existing residential areas is one of many strategies that aims to increase the housing stock, including creating additional housing units of a type and size that can be more affordable than other forms of housing in the coastal zone, in a way that may be able to avoid significant adverse impacts on coastal resources.***

The City, HCD, and the Commission all acknowledged the importance of ADUs and the role they can play in creating new affordable housing types, however, strict implementation of the state statute directly conflicts with the city's Local Coastal Program, which would therefore create adverse impacts on coastal resources, thus conflicting with the Coastal Act (as discussed throughout this memorandum).

The Type 3 Unit, while deviating from provisions of both the current LCP and state statute, allow for the greatest flexibility for homeowners and developers to add an ADU to their property. This track maximizes development potential, especially in a community where square footage is at a premium, and ensures

²⁸ Coastal Commission Staff Report; City of Carmel-by-the-Sea: Land Use Plan Re-submittal (3rd); November 21, 2002

coastal resources are protected at the same time through the city's discretionary review process discussed throughout the LCP is designed and developed to protect coastal resources.

ATTACHMENTS

Attachment A – Redline Draft Ordinance

Attachment B – Clean Draft Ordinance

Attachment C – [Coastal Commission Staff Report; Land Use Plan Re-Submittal ; November 21, 2002](#)

Attachment D – [Coastal Commission Staff Report; Land Use Plan Re-Submittal; February 13, 2003](#)

Attachment E – [Coastal Commission Staff Report; Implementation Plan Re-Submittal; Feb. 4, 2004](#)

Attachment F – [Coastal Commission Staff Report; Implementation Plan Re-Submittal; Sept. 23, 2004](#)
(LCP Adoption)

Attachment G – [State ADU Statute](#) (Government Code Section; Title 7; Chapter 13)

Attachment H – [California Coastal Act](#) (Public Resources Code; Division 20)

INFORMAL DRAFT REVIEW - CARMEL

1. 17.ADU.030 (A)(1) – *Number of ADUs, Single Family* – Allows 1 ADU and 1 JADU per single-family lot, conflicting with Government Code Section 65852.2 (e) which allows 1 converted ADU, 1 detached ADU and 1 JADU within the primary dwelling.
2. 17.ADU.030 (B)(1), (B)(2) – *Floor Area, Single Family* – The floor area is limited to be inclusive of the zoning's lot coverage and floor area allowances, meaning that if a lot has already developed a single-family home that meets/exceed buildable area allowed on the lot, an ADU cannot be constructed. This directly conflicts with Government Code Section 65852.2 (c)(2)(C), and (e)(1)(B) which allows a detached 800SF ADU. This regulation could have the effect of banning ADU new construction on most single-family parcels with existing single-family dwellings in Carmel.
3. 17.ADU.030 (B)(3) – *Lot Allowances, Single Family* – Existing ADUs are counted towards the lot coverage and floor area allowances. This, again, conflicts with the unit allowances of Government Code Section 65852.2 (e), for which lot coverage and Floor Area Allowances do not apply.
4. 17.ADU.030 (B)(4) – *ADU inferiority, Single Family* – The floor area of an ADU is limited to be less than that of the primary dwelling. No such requirement exists for detached units within Government Code section 65852.2, and such a requirement directly conflicts with Government Code Section 65852.2 (c)(2)(C), which allows for an 800 square foot ADU regardless of such conditions and (e)(1)(B) which allows a detached 800SF ADU.
5. 17.ADU.030 (C)(1) – *Attached Unit Size, Single Family* – An attached ADU is limited to 50% of the primary dwelling, such a requirement directly conflicts with Government Code Section 65852.2 (c)(2)(C), which allows for an 800 square foot ADU regardless of such conditions.
6. 17.ADU.030 (D)(1) – *Height, Single Family* – Height requirements same as local zoning. Without having checked other parts of the municipal code not stated within this ordinance, height maximums may not fall below those listed within Government Code section 65852.2, subdivision (d)(1). Top plate requirements are local design standards which may not be applied to ADUS created under Government Code section 65852.2, subdivision (e).
7. 17.ADU.030 (E)(1) – *Setbacks, Single Family* – The front setbacks are a requirement for ADUs, directly in conflict with the provisions for an 800 square foot unit as described in Government Code section 65852.2, subdivisions (c)(2)(c), and (e). Side and rear setbacks may not be greater than 4 feet for any new construction ADUs pursuant to Government Code section 65852.2, subdivision (a)(1)(D)(vii).
8. 17.ADU.030 (F) – *Parking, Single Family* – Parking required within Coastal Access Parking Areas. This is in conflict with Government Code section 65852.2, subdivisions (a)(1)(D)(x), and (d)(1),

which detail how any off-street parking that may be required may be situated, as well as several exemptions to parking standards regardless of zoning or districts.

9. 17.ADU.040 (F)(3) – *Non-conforming status, Single Family* – Loss of parking results in a nonconforming status. This is in conflict with Government Code section 65852.2, subdivisions (a)(1)(C) and (a)(11), which state that an ADU does not exceed the allowable density for the lot, and is consistent with the zoning designation on the lot.
10. 17.ADU.030 (G) – *Design Standards, Single Family* – Design standards apply to all ADUs. However, this is in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards.
11. 17.ADU.040 (A) – *JADUs, Multifamily* – Allows for JADUs in Multifamily. Pursuant to Government Code section 65852.22, subdivision (a), JADUs may only be permitted within single-family residential zones.
12. 17.ADU.040 (A)(1)(b), (A)(2) – *Number, Location, Multifamily* – Requires ADUs to be detached from all accessory structures. This is in conflict with Government Code section 65852.2, subdivision (e)(1)(D), which explicitly states that the two, detached ADUs are only detached from the multifamily dwelling, not any other structure. This section also does not allow for attached ADUs pursuant to Government Code section 65852.2, subdivision (a)(1)(D)(iii). Finally, the entirety of section 17.ADU.040 excludes proposed multifamily developments from creating ADUs. ADUs are allowed concurrently with proposed multifamily dwellings, pursuant to Government Code section 65852.2, subdivisions (a)(1)(D)(iii) and (e)(1)(D).
13. 17.ADU.040 (B) – *Floor Area, Multifamily* – Floor Area is restricted to the limits of other sections of the code, in conflict with Government Code section 65852.2, subdivisions (a)(7), (c)(2)(C) and (e)(1)(D). Subdivision (a)(7) states that no other ordinance, policy or regulation shall be the basis of the delay or denial of an ADU permit, while (c)(2)(C) and (e)(1)(D) detail ADUs which may not be restricted by lot coverage, density, or floor area allowances.
14. 17.ADU.040 (D) – *Height, Multifamily* – Height is restricted to 18ft, in contrast to (c)(2)(D)(iii), which allows for an additional two feet in height to match roof pitch, and (c)(2)(D)(iv) which allows up to 25ft or the limitation on the primary.
15. 17.ADU.040 (F) – *Parking, Multifamily* – Parking requirements are required within Coastal Access Parking Areas. This is in conflict with Government Code section 65852.2, subdivisions (a)(1)(D)(x), and (d)(1), which detail how any off-street parking that may be required may be situated, as well as several exemptions to parking standards regardless of zoning or districts.
16. 17.ADU.040 (F)(3) – *Non-conforming status, Multifamily* – Loss of parking results in a nonconforming status. This is in conflict with Government Code section 65852.2, subdivisions (a)(1)(C) and (a)(11), which state that an ADU does not exceed the allowable density for the lot, and is consistent with the zoning designation on the lot.

17. 17.ADU.040 (G) – *Design Standards, Multifamily* – Design standards apply to all ADUs. However, this is in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards.
18. 17.ADU.050 (C) – *Shared Facilities, JADUs* – Requires that the sanitation facility be considered in the JADUs square footage, and that it be immediately accessible. This is in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards. It is also inconsistent with Government Code section 65852.22, subdivision (a)(5)(B), which only requires an interior entrance to the main living area.
19. 17.ADU.050 (F) – *Parking, JADUs* – Replacement parking is required when a JADU is converted from a garage, and that parking must comply with the requirements of the underlying zoning district. However, Government Code section 65852.22 states that additional parking shall not be required. No off-street parking requirements are required to be covered.
20. 17.ADU.060 (A), (B) – *Design Review* – Administrative standards must be included within the ADU ordinance, as no other ordinance, policy or regulation may be used in the evaluation of ADUs per Government Code section 65852.2, subdivision (a)(7). This is also in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards. Additionally, “appearance” and “texture” are subjective terms with no means of uniform verification through an external benchmark, and therefore do not meet the definition of objective standards pursuant to Government Code section 65852.2, subdivision (j)(7).
21. 17.ADU.070 (D) – *Tree Removal* – The ordinance states that no trees shall be removed, except in accordance with another section of the Municipal Code. Government Code section 65852.2, subdivision (a)(7) states that no other ordinance, policy or regulation shall be the basis of the delay or denial of an ADU permit. This is also in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards.
22. 17.ADU.070 (E)(1)(c) – *Fire Sprinklers* – Requires fire sprinklers for the addition of space for an attached ADU. This requirement is in direct conflict with Government Code section 65852.2, subdivision (a)(1)(D)(xii), which states that the construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
23. 17.ADU.070 (E)(2) – *Constructed Concurrently* – Requires that an ADU shall be considered “concurrent” if the building permit is issued within two years. This requirement is in direct conflict with Government Code section 65852.2, subdivision (a)(3)(A), which details the ministerial processes for the approval or denial of an ADU based upon whether or not there is an existing primary dwelling on the lot. Additionally, Government Code section 65852.2, subdivision (j)(10) defines “proposed dwelling” as “a dwelling that is the subject of a permit application and that meets the requirements for permitting...” regardless of the status of any other structure on the lot, including when, or if, those structures had been permitted.

24. 17.ADU.070 (L) – *Overlay Districts* – Overlays may not be used to restrict ADU construction where residential uses are permitted pursuant to Government Code section 65852.2, subdivision (a)(1)(A). A local agency may only designate areas where ADUs may be constructed based upon the adequacy of water and sewer services, traffic flow, and public safety. Review must remain ministerial and free of discretionary processes. This is also in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local development standards.
25. 17.ADU.070 (M) and 17.ADU.090 (G) – *Historic* – Only Historic Resources on the California Register of Historical Resources may have additional, objective standards applied. Local Historic Preservation provisions may not apply to ADU development pursuant to Government Code section 65852.2, subdivision (a)(1)(B)(i). Additionally, no other ordinance, policy or regulation may be used in the evaluation of ADUs per Government Code section 65852.2, subdivision (a)(7).
26. 17.ADU.070 (O) – *Non-Conforming Site Coverage* – Non-conforming zoning conditions on the site may not be reason for delay or denial of an application for an ADU pursuant to Government Code section 65852.2, subdivisions (d)(2) and (e)(2), Which state that nonconforming zoning conditions may not be a factor in ministerial reviews. Additionally, no other ordinance, policy or regulation may be used in the evaluation of ADUs per Government Code section 65852.2, subdivision (a)(7).
27. 17.ADU.070 (P) – *Interior Access* – Interior access is not permitted between a primary unit and an ADU. This is in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local development standards.
28. 17.ADU.070 (T) – *Converted ADUs* – ADUs must be converted from legally permitted accessory structures. This is in conflict with Government Code section 65852.2, subdivisions (a)(1)(D)(vii), (d)(2), and (e)(1), and (e)(2). State ADU Law only requires that structures converted into ADUs be existing, regardless of whether they are legally permitted or not.

17.ADU.010 Purpose and intent
17.ADU.020 Applicable Zoning Districts
17.ADU.030 Development Standards for ADUs of Single Family Properties.
17.ADU.040 Development Standards for ADUs of Multi-Family Properties.
17.ADU.050 Junior Accessory Dwelling Units
17.ADU.060 Design Review.
17.ADU.070 Accessory Dwelling Units, General.
17.ADU.080 Application and Review Procedure.
17.ADU.090 Definitions.

17.ADU.010 Purpose, Intent, and Findings.

- A. To enact regulations governing Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) construction in compliance with Section 65852.2 and Section 65852.22 of the Government Code, or any successor statute. The provisions of this article shall be liberally construed in order to accomplish development of ADUs and JADUs. In the event of a conflict between the provisions of this article and any other ordinance of the City of Carmel-by-the-Sea regulating ADUs or JADUs, the provisions of this article shall prevail.
- B. To establish a process for ministerial review and approval of ADUs and JADUs. No local ordinance, policy, or regulation other than this article and regulations referenced therein shall be the basis for the denial or delay of a building permit for an ADU or JADU.
- C. The provisions of this chapter shall only be applicable to the establishment of ADUs and/or JADU (that being the establishment of the dwelling unit). Other improvements made to the site, including but not limited to, improvements to the primary dwelling, site coverage improvements/modifications, decks, patios, landscaping, grading, parking, shall be undertaken in accordance with the applicable regulations and procedures in CMC 17.58 unless expressly authorized in this chapter.
- D. To provide for additional affordable housing opportunities without a commitment of public funds which are usually necessary to subsidize large-scale affordable housing development projects;
- E. To provide for convenient child care opportunities within residential neighborhoods. For working-age residents with children, ADUs allow family members or other child care providers to reside in close proximity to the household requiring child care. The nearby availability of child care for their children offers working-age residents convenience, and more importantly, may enable them to work and support their families without the burden of commercial child care costs;
- F. To provide for convenient elder care opportunities within residential neighborhoods. ADUs and JADUs enable multi-generational living on a common site. As Carmel's population ages, ADUs and JADUs allow family members or other caregivers to reside in close proximity to those receiving care while affording them the privacy of their own living space. For those receiving care, ADUs and JADUs will enable many to remain in their homes longer than would otherwise be possible without needing to relocate to an assisted living or other facility;
- G. The entirety of the City of Carmel-by-the-Sea is located within the Coastal Zone. The City's Local Coastal Program was certified by the California Coastal Commission in October of 2004. In accordance with Government Code Section 65852.2(l), the California Coastal Act of 1976 is neither superseded nor in any

way altered or lessened except that a public hearing for Coastal Development Permit applications for ADUs shall not be required.

1. As described in the Land Use Plan, “The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics” (LUP).
- H. Carmel Bay is considered an Area of Special Biological Significance (ASBS). The City has an important role to play in assuring that new development in the incorporated City limits does not contribute to water quality impacts from storm water or drainage discharges into the bay. (LUP)
1. In a city with few formal street improvements or drainage systems, the “urbanized” forest also serves to convey runoff from the watershed to the beach and Carmel Bay through a variety of natural drainages, swales, and creeks. The forest performs the important functions of absorbing water from the soil, reducing runoff, filtering pollutants, and minimizing erosion. As such, the “urbanized” forest reduces the amount of polluted runoff and in large part, helps the City comply with the National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water permit regulations (LUP).

17.ADU.020 Applicable Zoning Districts.

- A. An ADU that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The ADU shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
 1. *Community Plan and Specific Plan Area.* The provisions of subsection (A), above, shall apply to sites zoned as Community Plan or Specific Plan areas where the approved development plan includes residential uses as a permitted use, including mixed use. In cases where the details of the original development plan are not available, the Director may determine whether a site was intended for residential use as a permitted use by considering the use of any existing structures on the site in addition to the uses of structures and the development pattern of the area immediately surrounding the site.

17.ADU.030 Development Standards for ADUs on Single Family Properties.

The following standards apply to ADUs and JADUs developed on all properties within the single family (R-1) zoning district, or any district developed with an existing or proposed single family dwelling.

- A. Location – Single Family.
 1. Number of ADUs. A maximum of one (1) ADU, and one (1) JADU shall be allowed on a single-family property.
 - a. JADUs may be allowed consistent with section 17.ADU.050.

2. Location on site. An ADU may be attached, detached, or located within the primary dwelling on the same lot. An ADU may be converted from a garage or other existing accessory structure.

B. Floor Area – Single Family.

1. The floor area of an ADU and/or JADU is included in any other floor area limitation in this Title that is applicable to an attached or detached accessory building for the housing type and in the base zone in which the lot is located.
2. An ADU which is proposed to exceed floor area as described in subsection (B)(1) shall not be approved, unless the floor area of the existing and/or proposed improvements on site are reduced to comply with the limits for the underlying zoning except otherwise provided in this subsection, (B)(2).
 - a. Bonus Floor Area Transfer: The basement bonus described in CMC 17.10.030.D.4 may be transferred to the ADU up to an amount that the total above ground floor area of the site (primary dwelling and ADU) does not exceed that of the underlying zone district.
3. For the purposes of development of other structures on the property, the floor area of an existing ADU shall be counted in the calculation of the property's total lot coverage and floor area ratio.
4. The floor area of an ADU shall not exceed the floor area of an existing or proposed primary dwelling unless the ADU is being created through the conversion of an existing structure as described in section 17.ADU.030.C (conversion ADUs).

C. Unit Size – Single Family. The standards below provided the maximum and minimum unit sizes for ADUs. Establishment of an ADU within these standards shall require floor area available for establishment of the unit consistent with section 17.ADU.030.B, above.

1. New Construction Attached ADU. An ADU attached to the primary dwelling shall have a minimum floor area of 150 feet, and shall not exceed 50 percent of the existing floor area of the primary dwelling.
 - a. An attached garage shall be included in the square footage of the primary dwelling whether a portion of the garage is converted to an ADU or demolished as part of the establishment of the ADU, or not.
2. New Construction Detached ADU. A detached ADU shall have a minimum floor area of 150 square feet, and shall not exceed 850 square feet, except for an ADU that provides more than one bedroom, which shall not exceed 1,000 square feet.
3. Conversion ADUs. A conversion ADU shall have a minimum floor area of 150 square feet. The maximum floor area of an ADU that converts a portion of a primary dwelling shall be no more than 50% of the existing floor area of the dwelling being converted. An ADU that is created through the conversion of an existing detached accessory structure shall have no size restriction (i.e. the entire detached accessory structure may be converted regardless of the size).

- a. For the full conversion of accessory structures, an expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed. The 150 square foot addition shall comply with all setbacks and height limits of the underlying zone district.
- D. Height Limits – Single Family. The maximum height of an attached or detached new ADU shall not exceed the following limits:
 - 1. New Construction: Attached and detached ADUs shall comply with the height limits set forth in the zoning district in which the ADU is located. All new attached and detached ADUs shall comply with the plate and ridge heights established in table 17.10-C located in CMC 17.10.030.B.
 - a. Exceptions. The maximum ridge height for all structures shall be sixteen (16') feet with a twelve (12') plate height in the following instances:
 - i. The height of the primary dwelling unit is less than sixteen (16') feet;
 - ii. Any portion of a detached ADU is located between a primary dwelling unit and a site's front setback line; or
 - iii. Any portion of a detached ADU is located less than four (4') from the side lot line or less than fifteen (15') feet from the rear lot line.
 - 2. For a conversion ADU (without an expansion): the ADU shall be contained completely within the existing structure, and maintain the existing height of the converted structure.
 - a. An expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed for existing accessory structures. The 150 square foot addition shall match the plate and ridge heights of the existing accessory structure.
- E. Setbacks – Single Family.
 - 1. New Construction: Attached and detached ADUs shall comply with the setback requirements set forth in the zoning district in which the ADU is located including any applicable overlay district for with the subject property is located except as provided in this subsection.
 - a. An ADU shall comply with the front yard setback requirements of the applicable zoning district, except for when an existing structure is converted, maintains a non-conforming setback.
 - i. Detached ADUs shall not be subject to composite setback requirements prescribed in CMC 17.10.030.A.
 - 2. For a conversion ADU (without an expansion): No setback shall be required for conversion ADUs provided the structure maintains an adequate setback required for fire safety and access as determined by the Building Official and/or Fire Marshall.

- a. An expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed for existing accessory structures. The 150 square foot addition shall comply with all minimum setbacks limits described above.

F. Parking – Single Family.

1. No parking shall be required for an ADU except for as provided in the Coastal Access Parking Area, described in section 17.ADU.070.Q.
2. Except for as required in the Coastal Access Parking Area, when the required parking serving a primary dwelling is demolished for the purpose of establishing an ADU, replacement parking for the primary dwelling shall not be required.
 - a. This provision shall not apply for demolition and/or reconstruction of existing dwellings.
 - b. This provision shall not apply to JADUs, as described in section 17.ADU.050.F.
 - c. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be voluntarily provided as replacement parking for the primary dwelling and approved ministerially as part of the permit application for the ADU. The parking pad shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC 12.24.020.A-L are otherwise met.
 - i. Replacement garages or carports voluntarily provided shall be subject to Design Review pursuant to CMC 17.56 and shall be required to comply with applicable floor area and site coverage limitations for the site.
3. Development resulting in a loss of off-street parking shall render the site non-conforming, as described in CMC 17.10.030.F.2.d, if the site does not conform to parking requirements.

G. Design Review – Single Family. All ADUs shall be subject to the provisions outlined in section 17.ADU.060, Design Standards.

17.ADU.040 Development Standards for ADUs on Multi-Family Properties.

The following standards apply to ADUs and JADUs developed on multi-family residential properties or mixed-used developments at any density:

A. Location – Multi-Family.

1. Number of ADUs. For all existing multi-family or mixed-use developments, both subsections (a) and (b) below shall apply.
 - a. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space:
 - i. The equivalent number of twenty-five (25%) percent of the existing multi-family dwelling units (no less than one (1) unit).

- b. ADUs detached from existing or proposed multi-family dwelling structures (The provisions of this subsection shall apply to a newly-constructed ADU that is detached from an existing multi-family dwelling structure and all accessory structures including, without limitation, garages and storage areas on the same site):

- i. Up to two (2) ADUs

2. Location on site.

- a. ADUs may be located within the portion of existing multi-family dwelling structures that are not used as livable space including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

- i. In mixed-use buildings, the non-livable space used to create an ADU or ADUs shall be limited to the residential areas of a mixed-use development, and not the areas used for commercial or other activities. The parking and storage areas for these non-residential uses shall also be excluded from potential ADU development.

- b. ADUs may be detached from an existing or proposed multi-family dwelling structure and all accessory structures including, without limitation, garages and storage areas on the same site

B. Floor Area – Multi-Family.

1. The floor area of an ADU is included in any other floor area limitation in this Title that is applicable to a detached accessory building for the housing type and in the base zone in which the lot is located.
2. An ADU which is proposed to exceed lot coverage and floor area as described below shall not be approved, unless the size is reduced so that the entire site in total complies with the limits for the underlying zoning district.
3. For purposes of development of other structures on the property, the floor area of an existing ADU shall be counted in the calculation of the property's total lot coverage and floor area ratio.
4. The floor area of an ADU shall not exceed the floor area of an existing or proposed primary dwelling unless the ADU is established through the conversion of an existing accessory structure or a portion of the existing primary residence as described in section 17.ADU.040.C.1.

C. Unit Size – Multi-Family. The standards below provide the maximum and minimum unit sizes for ADUs on multifamily properties. Establishment of an ADU within these standards shall require available floor area for establishment of the unit consistent with section 17.ADU.040.B, above.

1. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space:

- a. The minimum size of the ADU shall be 150 square feet. The maximum size of an ADU that is a conversion of a portion of the existing multi-family dwelling structures that are not used as livable space shall have no a maximum size requirement.
 2. Detached ADUs detached from existing multi-family dwelling structures:
 - a. New Construction Detached ADU. A detached ADU shall have a minimum floor area of 150 square feet, and shall not exceed 850 square feet, except for an ADU that provides more than one bedroom, which shall not exceed 1,000 square feet.
- D. Height Limits – Multi-Family. The maximum height of a detached new ADU on a multifamily property shall not exceed the following limits:
1. The height limit for detached ADUs is sixteen (16') feet or eighteen (18') feet if the multifamily dwelling contains more than one story.
 2. For ADUs contained within the portion of existing multi-family dwelling that is not used as livable space, the height will not exceed that of the existing space being converted.
- E. Setbacks – Multi-Family.
1. New Construction: Detached ADUs on multifamily properties shall comply with the setback requirements set forth in the zoning district in which the ADU is located including any applicable overlay district for with the subject property is located except as provided in this subsection.
 - a. An ADU shall comply with the front yard setback requirements of the applicable zoning district, except for when an existing structure is converted, maintains a non-conforming setback.
 - i. Detached ADUs shall not be subject to composite setback requirements prescribed in CMC 17.10.030.A, if applicable.
 2. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space: No setback shall be required for conversion ADUs provided the structure maintains an adequate setback required for fire safety and access as determined by the Building Official and/or Fire Marshall.
- F. Parking – Multi-Family.
1. No parking shall be required for an ADU except for as provided in the Coastal Access Parking Area, described in section 17.ADU.070.Q.
 2. Except for as required in the Coastal Access Parking Area, if the required parking serving a primary dwelling is demolished for the purpose of establishing an ADU, replacement parking for the primary dwelling(s) shall not be required.

- a. This provision shall not apply for demolition and/or reconstruction of existing dwellings.
- 3. Development resulting in a loss of off-street parking shall render the site non-conforming, as described in section 17.10.030.F.2.d, if the site does not conform to parking requirements.
- G. Design Review – Multi-Family. All ADUs shall be subject to the provisions outlined in section 17.ADU.060, Design Review.

17.ADU.050 Junior Accessory Dwelling Units.

Junior Accessory Dwelling Units. JADUs shall conform with the following:

- A. A JADU shall be a minimum of 150 square feet not exceed 500 square feet in size and shall contain at least an efficiency kitchen, which includes cooking appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the JADU.
- B. A JADU shall have a separate entrance from the single-family dwelling.
- C. The JADU may, but is not required to, include separate sanitation facilities. If separate sanitation facilities are not provided, the JADU shall share sanitation facilities with the single-family residence. If sanitation facilities are provided as part of the primary dwelling, the JADU shall maintain interior access to the primary dwelling.
 - 1. If a shared sanitation facility is provided with the primary dwelling, the shared sanitation facility shall:
 - a. Be in immediate close proximity to JADU;
 - b. Be accessible from the JADU without entering a separate room within the primary dwelling (accessible via a communal hallway or corridor) and without exiting to the exterior of the dwelling;
 - c. Be counted as part of the square footage of the unit (only the JADU and sanitation facilitation shall be considered in the floor area calculation; the communal corridor or hallway shall not be considered).
- D. Unless the property is owned by a governmental agency, land trust, or housing organization, one of the dwellings on the parcel (either the primary dwelling or JADU) must be the bona fide principal residence of at least one legal owner of the parcel, as evidenced at the time of approval of the JADU by appropriate documents of title and residency.
- E. Prior to issuance of a building permit for a JADU, the owner shall record a covenant in a form prescribed by the city, which shall run with the land and provide for the following. A copy of the recorded covenant shall be filed with the Community Planning and Building Department prior to issuance of a building permit:
 - 1. A prohibition on the sale of the JADU separate from the sale of the single-family residence;

2. A restriction on the size and attributes of the JADU consistent with this section;
 3. A prohibition against renting the property for fewer than 30 consecutive calendar days; and
 4. A requirement that either the primary residence or the JADU be the owner's bona fide principal residence, unless the owner is a governmental agency, land trust, or housing organization.
- F. Parking is not required for JADUs. However, if an existing attached garage is replaced by a JADU, each removed parking space must be replaced with an off-street parking space that complies with the requirements of the underlying zoning district.

17.ADU.060 Design Review.

The following shall apply to the design and exterior appearance of ADUs.

- A. ADUs shall comply with all applicable Administrative ADU Design Standards adopted by the Planning Commission. The Planning Commission may develop, and from time to time amend, the administrative standards provided the standards set forth for ADUs are objective and the criteria can be evaluated without discretion.
- B. In the absence of adopted administrative design standards for ADUs, the accessory dwelling shall be constructed with exterior materials that have the same texture and appearance to the primary dwelling, including but not limited to roofing, siding, and windows and doors.

17.ADU.070 Accessory Dwelling Units, General.

The following standards and requirements apply to all ADUs and JADUs:

- A. Permit Required. No person shall develop, construct, cause to be rented, or occupy an ADU or JADU on any lot within the city unless a building permit and associated approvals are obtained by the Community Planning and Building Department pursuant to the procedures and standards set forth in this chapter.
 1. Prior to building permit issuance, the building official shall find that all local building code requirements have been satisfied, except that the construction of an ADU shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was uninhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.
- B. Certificate of Occupancy. A certificate of occupancy for an ADU or JADU shall not be issued before the issuance of a certificate of occupancy for the primary dwelling, if constructed concurrently.

- C. Site Requirements. The building site is zoned to allow single-family or multifamily dwelling residential use and lot must contain a proposed or existing single-family dwelling, or existing multifamily dwelling. Notwithstanding any provision of this code to the contrary, an ADU shall be a permitted use in any zone where a single-family or multifamily dwelling is permitted.

1. Prohibited Locations.

- a. The establishment of an ADU or JADU shall not be allowed through any permit or license on any building site where sufficient water to support the ADU or JADU is not available for the site.
- b. The establishment of an ADU or JADU shall not be permitted on any portion of a building site not considered as part of the "buildable area" of a site, as defined in CMC 17.70.020.

- D. Trees. No tree, as described in CMC 17.48.050.A.1.a or CMC 17.48.050.A.1.b, shall be removed or pruned for the purpose of establishing an ADU except in accordance with CMC 17.48.050.

1. Significant trees shall only be removed in accordance with CMC 17.48.070.B.
2. If trees are permitted by the City to be removed to facilitate the construction of an ADU that would otherwise preclude the development of an ADU replacement trees shall be provided on-site pursuant to CMC 17.48.080, or payment into the city's tree in-lieu fund, as adopted by Resolution by City Council, for each tree removed. Alternative locations may be approved by the city forester, as appropriate.
3. All compaction of soils, construction of building walls, or placement of impermeable surfaces shall be setback a minimum of six feet from all trees.

- E. Fire Sprinklers. Notwithstanding any other provision of the Carmel Municipal Code, installation of fire sprinklers in an ADU of any type shall be required only if they are required for the primary dwelling unit. The construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling except as provided below.

1. Fire sprinklers shall be considered "required for the primary dwelling unit" in any of the following circumstances:
 - a. When fire sprinklers are currently installed in the primary dwelling unit;
 - b. When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an ADU; or
 - c. When fire sprinklers will be installed in an existing primary dwelling unit as the result of an addition to the primary dwelling unit, including an addition for the purpose of establishing an ADU, which addition triggered a requirement for retroactive installation

of fire sprinklers in the primary dwelling unit in accordance with SOG 23-01, Determining Fire Sprinkler Retrofit Requirements, and the Carmel Municipal Code.

2. For purposes of this subsection (a)(ii), the term "constructed concurrently" shall mean construction of a primary dwelling unit that is performed in reliance on a building permit issued within two (2) years of the date of issuance of a building permit for construction of an ADU.
 3. The floor area of an ADU contained within the existing space of a single-family dwelling or accessory structure or multi-family dwelling shall not be considered an "addition" under any provision of the Carmel Municipal Code related to retroactive installation of fire sprinklers in a structure.
- F. Drainage. Permit applications for the creation of a new attached or detached ADU shall comply with the requirements of CMC 15.18, Site Drainage.
- G. Utilities. An ADU may have shared or separate utility services (i.e., an electrical and/or gas meter) from the primary dwelling.
- H. Rental Term. Rental of any unit created pursuant to this chapter shall be for a term of 30 days or more.
- I. No Separate Conveyance. The ADU may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence except as authorized in Gov. Code, §65852.26.
- J. Story Poles. Story poles shall be installed consistent with the city's Story Pole Policy (Resolution 2017-122) for all ADUs that require a Coastal Development Permit where any addition of floor area or building height is proposed.
- K. Transient Rental, Housing Incentive. An ADU created pursuant to this chapter shall not constitute construction of a new rental unit as described in CMC 17.14.040.W.2, Transient Rental, Housing Incentive.
- L. Overlay Districts. Except as modified by this chapter, the ADU shall conform to all requirements of any applicable overlay district, described within CMC 17.20, except that no public hearing shall be required. The duties and powers designated to any board or commission shall be designated to the Director, as applicable, in the review of the ADU.
- M. Historic Resources. An ADU or JADU proposed on a property with a historic resource shall be subject to the provisions outlined in CMC 17.32 except that no public hearing shall be required. A Determination of Consistency with the Secretary of the Interior's Standards shall be required for all major and minor alterations, as appropriate.
- N. Mills Act. An ADU or JADU proposed on a property subject to a Mills Act Contract must comply with the provisions of the contract, including conformance to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, the United States Secretary of the

Interior's Standard for Rehabilitation, the California Historical Building Code, and the city's Historic Preservation Ordinance.

- O. Non-Conforming Site Coverage. Within the R-1 Zone District, sites shall comply with the provisions of CMC 17.10.030.C.2, as applicable.
- P. Access.
1. Exterior access. The ADU and/or JADU must have exterior access independent of the main unit.
 2. Inter-accessibility. Any accessory dwelling unit that is attached to, or located within, a single family dwelling shall be an independent dwelling unit with no inter-accessibility, interconnectivity, internal circulation, or other means of passage between the primary dwelling and ADU. This provision shall not apply to JADUs which may share circulation into the primary dwelling as described in section 17.ADU.050.C.
- Q. Coastal Access Parking Area. Project sites located within the Coastal access parking area, as illustrated in Figure 1, below, shall be required to provide one (1) on-site parking space per ADU in addition to any required parking to the primary dwelling.
1. Within the R-1 District, parking may be provided as an uncovered tandem space within the front or side yard setback located on the driveway in front of a garage or carport or elsewhere on the property where parking is allowed by the underlying zoning district.
 - a. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be provided ministerially for the ADU and shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC 12.24.020.A-L are otherwise met.
 2. Within all districts other than the R-1 District, replacement parking shall follow the standards prescribed in CMC 17.38, off-street parking requirements.
 - a. Unless specified in the Community Plan, Community Plan Districts shall comply with the provisions of CMC 17.38.

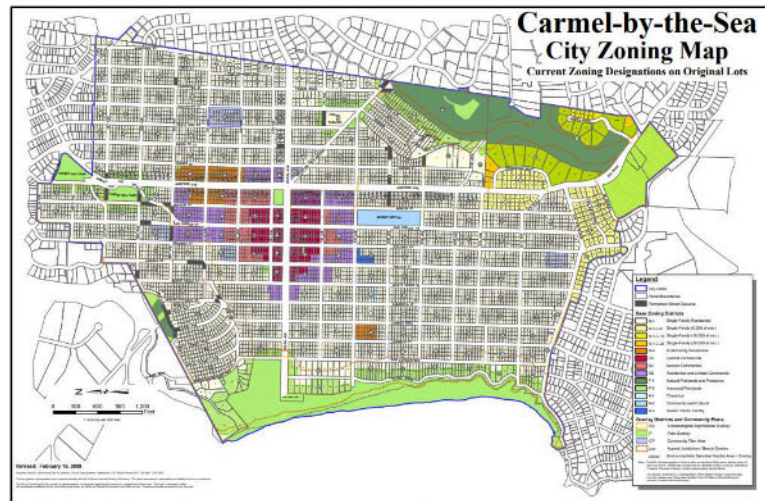


FIGURE 1. Coastal Access Parking Area [Map forthcoming].

- R. Building Separation. No minimum distance is required between structures. An ADU shall be considered attached to the primary dwelling unit or any other building when there is a common wall, common roof, or a horizontal connection at least thirty (30") inches above grade. Horizontal connections, including but not limiting to, retaining walls and/or decking between an ADU and the primary dwelling unit or any other building that are less than thirty (30") inches above grade are not considered a connection.
 - 1. It is recommended a minimum of three (3') foot wide clear path of travel be maintained between buildings.
- S. Passageway. No passageway shall be required in conjunction with the construction of an ADU.
- T. Standards for Accessory Structure Conversions.
 - 1. If a legally permitted accessory structure is demolished for the purpose of converting the structure to an ADU with the same dimensions, including but not limited to floor area, height, roof pitch, setbacks, the ADU can be rebuilt on the footprint of the existing accessory structure. A structure that is reconstructed beyond any of the existing dimensions of the existing structure shall not be considered a conversion and be subject to the applicable standards for a new detached ADU, except that a 150 square foot addition for ingress and egress may be allowed.
 - a. When a legally permitted existing accessory structure is demolished for the purpose of converting the structure to an ADU, a survey, prepared by a California Licensed Surveyor or Engineer, shall be submitted with the building with the building permit application certifying the following prior to demolition of the subject structure:
 - i. [CRITERIA TBD]
 - 2. Carport Conversion. When a carport is converted, an "imaginary wall plane" will be drawn around the exterior of the existing support posts. That wall plane becomes the exterior

walls/footprint for the purposes of the conversion. An ADU cannot be expanded beyond that wall plane.

3. Demolition Permits. A demolition permit for a detached garage that is to be replaced with an ADU shall be reviewed with the application for the ADU and issued at the same time as the ADU.

U. Subordinate Units

1. A nonconforming subordinate unit may be converted to a permitted ADU or JADU upon submittal of a building permit application demonstrating the unit meets the requirements outlined in this chapter for either an ADU or JADU, as appropriate, including evidence the unit was originally classified as a subordinate unit. All fees assessed by the city shall be waived for the conversion of a subordinate unit to an ADU or JADU provided there are no other building permits proposed as part of the application.
 - a. The property owner shall remove any covenants or restrictions associated with the subordinate unit as part of the building permit application. If covenants or restrictions are to be removed, said restriction shall be rescinded prior to a certificate of occupancy for the newly established ADU.

V. Non-Conformities.

1. The city shall not deny an application for a permit to create an ADU due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the ADU.
2. A non-conforming detached accessory structure may be re-built or re-constructed in-kind pursuant to 17.ADU.070.T.1. Demolished non-conformities may be re-built or re-established provided the reconstruction is for the benefit of the ADU only, and non-conformities are not expanded.

17.ADU.080 Application and Review Procedures.

A. Timing

1. The city shall ministerially approve or disapprove a complete building permit application for an ADU or JADU in compliance with the time periods established by State law. If a Coastal Development Permit is required, the Coastal Development Permit may be processed concurrently with the building permit application for the creation of the ADU/JADU, however, no building permit application shall be deemed complete until any required associated Coastal Development Permit has been approved.

B. Standard of Review

1. **Ministerial Review.** Except for when a Coastal Development Permit is required, applications for ADUs on a lot with an existing single-family residence or multifamily dwelling units that conform to the requirements of this section shall be considered as ministerial permits without discretionary review or a hearing, and the City shall approve or deny such applications within 60 calendar days after receiving the completed application. If the permit application to create an ADU, and/or JADU, is submitted with a permit application to create a new single-family dwelling on the lot, the city may delay acting on the permit application for the ADU until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the ADU shall still be considered as a ministerial permit without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.
2. **Coastal Development Permits.** For ADUs and JADUs that constitute development and therefore require a Coastal Development Permit: the City shall approve or deny coastal development permit applications within 60 calendar days after receiving the completed application to the extent feasible consistent with section 17.ADU.080.C, below. No building permit application shall be deemed complete until a Coastal Development Permit subject to the provisions of this section has been approved and any applicable appeal period has concluded.
 - a. **Readers Note:** Most ADUs and JADUs constitute development if they include, for example, new construction of a detached ADU, new construction of an attached ADU or JADU, or conversion of an existing, uninhabitable, attached or detached space to a ADU or JADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the “placement or erection of solid material,” and the conversion of existing, uninhabitable space would generally constitute a “change in the density or intensity of use.” Therefore, these activities would generally constitute development in the coastal zone that requires a CDP.
3. **Discretionary Review Request.** The applicant may submit an application for discretionary review of the ADU that deviates from the ministerial standards of this chapter but is within the discretionary purview of the city, or to provide for concurrent review of Coastal Development Permits for the ADU and the primary dwelling when a public hearing is required for the primary dwelling. Examples of this request may include consideration of design features that are otherwise prohibited ministerially but may otherwise be permitted through discretionary review.
 - a. When a ministerial review waiver is requested the procedures in CMC 17.56, Design Review, shall be followed.
 - i. The decision of the reviewing authority may be appealed consistent with CMC 17.54, Appeals.

- b. ADUs proposed as part of a discretionary review application shall be considered a permitted use consistent with section 17.ADU.020.
- c. The decision of the reviewing authority shall not preclude the ability of an applicant to receive a ministerial permit pursuant to Section 17.ADU.080.B.1 or 17.ADU.B.2 for an ADU that is brought into full compliance with the provisions of this chapter.
- d. The city shall not direct applications for the establishment of an ADU into a discretionary review track unless requested by the applicant.
- e. No separate fee for a Coastal Development Permit shall be assessed for a Coastal Development permit that is considered concurrently with a primary dwelling.

C. Coastal Development Permits.

1. Coastal Commission Appeals Jurisdiction. For Coastal Development Permits that are appealable to the California Coastal Commission, as described is the Carmel Municipal Code, the authority to review an application for a Coastal Development Permit is designated to the Director of Community Planning and Building or the Director's designee. Prior to approval of the Coastal Development Permit, the Director shall find that the Coastal Development Permit meets the findings identified in CMC 17.64.010.B, Coastal Development Permits. The Director shall not approve an application for a Coastal Development permit that is not found to be consistent with CMC 17.64.010.B.

At least 10 days before the City's decision on the application, the City shall provide notice, by first-class mail to all owners of real property, as identified on the last equalized property tax assessment roll within 300 feet. The notice shall include:

- a. The date the application will be acted upon by the City's review authority;
- b. A statement that the development is within the coastal zone;
- c. The date of filing of the application and the name of the applicant;
- d. The number assigned to the application;
- e. A description of the development and its location;
- f. The procedure for which an appeal may be filed with the California Coastal Commission.

The Director's decision shall be final and any appeals of the decisions of the Director or the Director's designee shall be appealed directly to the California Coastal Commission. Actions on applications to construct ADUs within these areas shall be consistent with the provisions of the applicable zone and the policies and development standards of the City of Carmel's certified Local Coastal Program and Chapter 3 of the California Coastal Act.

- a. Exception: If a waiver is requested by the applicant pursuant to section 17.ADU.080.C.1.a, the proposed Coastal Development Permit for the ADU shall also be reviewed by the decision making body designated in CMC 17.56. If an exception is

requested pursuant to section 17.ADU.080.C.1.a, any appeal further appeal made shall be in accordance with CMC 17.54.

2. **Non-Appealable Coastal Development Permits.** When a proposed ADU or JADU is not appealable to the California Coastal Commission and a Coastal Development Permit is required, the authority to review an application for a Coastal Development Permit is designated to the Director of Community Planning and Building or the Director's designee. Prior to approval of the Coastal Development Permit, the Director shall find that the Coastal Development Permit meets the findings identified in CMC 17.64.010.B, Coastal Development Permits. The Director shall not approve an application for a Coastal Development permit that is not found to be consistent with CMC 17.64.010.B.

At least 10 days before the City's decision on the application, the City shall provide notice, by first-class mail to all owners of real property, as identified on the last equalized property tax assessment roll within 300 feet. The notice shall include:

- a. The date the application will be acted upon by the City's review authority;
- b. A statement that the development is within the coastal zone;
- c. The date of filing of the application and the name of the applicant;
- d. The number assigned to the application;
- e. A description of the development and its location;
- f. A statement that the decision of the director is final and not appealable.

The decision of the Director, or the Director's designee shall not be appealable and constitute the final action of the City.

- a. **Exception:** If a waiver is requested by the applicant pursuant to section 17.ADU.080.C.1.a, the proposed Coastal Development Permit for the ADU shall also be reviewed by the decision making body designated in CMC 17.56. If an exception is requested pursuant to section 17.ADU.080.C.1.a, any appeal further appeal made shall be in accordance with CMC 17.54.

D. Denials.

1. If the city denies an application for an ADU or JADU pursuant to section 17.ADU.080.B.1, the permitting agency shall, within the time period described in 17.ADU.080.B.1, return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

17.ADU.090 Definitions

As used in this chapter, terms are defined as follows. Terms not defined below shall take the definition as otherwise define in Title 17 of the Carmel Municipal Code.

- A. **Accessory Dwelling Unit (ADU).** "Accessory Dwelling Unit" or "ADU" means an attached or a detached residential dwelling unit that provides complete independent living facilities and permanent provisions for living, sleeping, eating, cooking, sanitation, and connection to utilities for one or more persons and is

located on a lot with a proposed or existing primary residence or multi-family residences. An ADU also includes the following: An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, and a manufactured home, as defined in Section 18007 of the California Health and Safety Code. ADUs do not include mobile homes, tiny homes, or recreational vehicles licensed by the Department of Motor Vehicles (DMV).

1. **Attached.** An "Attached ADU" means an ADU that does not qualify as a conversion ADU and is constructed as a physical expansion (i.e. addition) to the primary dwelling. An attached ADU may be attached to the Single-Family Dwelling Unit by one or more common walls or other means but shares a physical connection. An attached ADU distinct from the definition of a junior ADU.
 2. **Detached.** A "Detached ADU" means an ADU that is within an independent structure entirely separate and shares no physical connection to the primary dwelling unit and/or other accessory structures.
 3. **Conversion.** A "Conversion ADU" means an ADU that is constructed completely within the existing or proposed space of a single family residence, an existing detached accessory structure, or an existing multi-family structure. Conversion ADUs are located completely within the existing or proposed floor area of the structure in which they are located, except for expansions for ingress and egress as allowed within this chapter.
- B. **Accessory structure.** A structure that is accessory and incidental to, and detached from, a dwelling located on the same site.
- C. **Complete independent living facilities.** Permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.
- D. **Coastal access parking area.** The Coastal Access Parking Area is defined as all properties located within the Beach and Riparian (BR) Overlay District located west of the centerline of Carmelo Street and west of the centerline North San Antonio Street, as well as all properties with street frontages located on San Antonio Avenue or North San Antonio Avenue.
1. If a property is not located immediately adjacent to a street frontage (flag lot, easements, etc), the frontage shall be determined by the driveway location of the subject property.
- E. **Efficiency Kitchen.** An efficiency kitchen shall mean a room or portion thereof containing permanent facilities designed and used for food preparation, cooking, eating and dish washing. A kitchen facility includes a sink that facilitates hot and cold water, a refrigerator, small electric kitchen appliances that do not require electrical service greater than 120 volts, an appropriately sized food preparation counter and storage cabinets. A dishwasher may be included as part of an efficiency kitchen, but is not required.
- F. **Efficiency Unit.** As defined in Section 17958.1 of the California Health and Safety Code.
- G. **Historic Resource.** For purposes of this section, a Historic Resource shall be a property listed, or eligible for listing, on the National Register of Historic Places or the California Register of Historical Resources, listed on the Carmel Inventory or Register of Historic Resources, or located in a designated historic district.

- H. **Junior Accessory Dwelling Unit.** (Also known as "Junior ADU" or "JADU") shall have the same meaning as defined in the California Government Code Section 65852.22, as amended from time to time.
- I. **Manufactured Home.** A unit as defined by Section 18007 of the California Health and Safety Code, as may be amended.
- J. **Ministerial approval.** Approval related to a building permit application that does not require discretionary action or a hearing.
- K. **Multi-Family Building.** A structure with two or more attached dwellings on a single lot, and any mixed use structure containing commercial floor area and one or more dwelling units. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings, nor are subordinate units, or existing ADUs.
- L. **Passageway.** A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- M. **Primary Dwelling.** A "Primary Dwelling" or "primary residence" means a single-family or multifamily residential dwelling unit that either exists on or is proposed for a lot zoned for any residential or mixed-use zone, either through a permitted use or a conditional use, and is constructed prior to or concurrently to the ADU or JADU. The primary dwelling shall include all attached non-habitable areas, such as attached garages, but does not include detached accessory structures on the same building site.
- N. **Proposed dwelling.** A dwelling that is the subject of a permit application and that meets the requirements for permitting and is subject to a Design Review Application, subject to CMC 17.58.
- O. **Sanitation Facilities.** Sanitation facilities means a room containing a toilet, sink, and bathtub or shower. Sanitation facilities may also be referred to as a bathroom or restroom.
- P. **Subordinate Units.** The city has previously classified two types of subordinate dwellings:
- i. Legal nonconforming units that were established prior to June 5, 1929. These units were legally established and required no permit. These units were originally classified as subordinate units.
 - ii. Legal nonconforming units that were established prior to April 5, 1988, and registered with the City by December 6, 1994. These units typically were built without City approval but were then legalized and brought to minimum health and safety standards through an amnesty period and registration. These units were originally classified as subordinate units.



CITY OF CARMEL-BY-THE-SEA
Planning Commission
Staff Report

September 25, 2025
PUBLIC HEARINGS

TO: Chair LePage and Planning Commissioners
SUBMITTED Evan Kort, Senior Planner
BY:
APPROVED BY: Anna Ginette, AICP, Director of Community Planning and Building
SUBJECT: **ADU Ordinance Workshop:** Conduct a public workshop to gather feedback on a revised draft ordinance amending Title 17 relating to Accessory Dwelling Units

Application: ADU Ordinance Workshop **APN:**
Block & Lot:
Location: Citywide
Applicant: **Owner:**

Recommendation:
Conduct a public workshop to gather feedback on a revised draft ordinance amending Title 17 relating to Accessory Dwelling Units (ADUs)

Summary, Background, and Project Description:
BACKGROUND/SUMMARY:
The Planning Commission is being presented with a revised draft 2nd draft (version 2.5) of an ordinance (**Attachment A**) that would amend the City’s regulations pertaining to Accessory Dwelling Units or “ADUs”, which include both full Accessory Dwelling Units, and Junior Accessory Dwelling Units or “JADUs”. This workshop is meant to gather feedback from the commission and the public alike on any and all aspects of ADU regulation. Subsequent to receiving feedback, staff will make necessary modifications to the draft ordinance and return to the commission for a formal recommendation of adoption to the City Council.

On November 13, 2024, the Planning Commission held a public workshop at their regularly scheduled Planning Commission meeting ([click here for staff report](#)) to review the 2nd draft of the ADU ordinance (version 2). The commission directed staff to return for an additional workshop that facilitated an informal setting and discussion-based format and allow additional time to review the draft ordinance. As directed, staff is

returning to the commission with a revised 2nd draft of the proposed ordinance (version 2.5; refer to **Attachment A**) that incorporates minor revisions, as recommended, in advance of this workshop for public review.

Competing State Laws

The discussion below provides a summary of state law pertaining to ADUs and the California Coastal Act. This information is significant as conflicts occur between the two sets of laws. However, as pointed out below, the ADU law contains a coastal savings clause (Government Code Section 66329) which maintains the supremacy of the California Coastal Act. Therefore, as decision makers and a recommending body to City Council, the Planning Commission must weigh the requirements of both laws to put forth a balanced and consistent ADU ordinance that protects the city's coastal resources and addresses our housing needs.

State ADU Law

State law requires local agencies to adopt an ADU ordinance that meets the requirements of Article 2 of the state ADU statute ([Government Code, Title 7, Division 1, Chapter 13](#)). Any existing ordinances that do not meet the requirements in said article shall be null and void. This essentially requires agencies to apply the requirements in state law.

In adopting the ADU statute, the state legislature found and declared that ADUs are a valuable form of housing provided at below market prices within existing neighborhoods. The intent of the statute is that a local ADU ordinance would provide the for the creation of ADUs. Further, regulations relating to unit size, parking, fees, etc., are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create ADUs. As such, state law requires that local agencies cannot preclude the establishment of a "state exempt" (800 square feet or less) ADU. In summary, the law requires a local ordinance:

- Only impose objective standards for parking, height, setback, landscape, architectural review, unit size and preventing adverse impacts on real property listed in the California Register of Historic Resources.
- Limit approvals to ministerial permits.
- Not count ADUs towards density.
- Provide a minimum and maximum size limitation;
 - Floor area for attached ADUs shall not exceed 50% of an existing primary dwelling;
 - Floor area for detached ADUs shall not exceed 1,200 square feet;
 - Shall not establish a minimum square footage requirement that prohibits an efficiency unit (150 square feet in living space with a separate closet, kitchen sink, cooking appliance, refrigerator, and a separate bathroom containing a water closet, lavatory, bathtub, or shower); and
 - Shall not establish a maximum square footage requirement that is 850 square feet or 1,000 square feet for an ADU with more than one bedroom.

The law further requires that a local ordinance shall not:

- Require a separate review.
- Establish any other minimum/maximum ADU size.
- ADU size based upon a percentage of the proposed or existing primary dwelling.
- Limit lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot ADU with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.
- Apply a height limit that does not allow:
 - A 16-foot tall detached ADU;
 - An 18-foot tall detached ADU on a lot with a multifamily, multistory building; or
 - A 25-foot tall or the applied height limit to the primary dwelling, which ever is lower, for an ADU attached to the primary dwelling.

When considering these requirements, the commission must also consider Government Code Section 66329, which states that “[N]othing in this article shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.” The intent of this section is to preserve the requirements of the Coastal Act and identify both sections of law are equally important. This allows the city to apply our Local Coastal Program for review of all ADUs, including a state exempt ADU.

California Coastal Act of 1976 (Coastal Act)

In adopting the Coastal Act ([Public Resources Code – Division 20](#)), the legislature found and declared that the permanent protection of the state’s natural and scenic resources is a paramount concern to present and future residents of the state and nation. Further, future developments that are carefully planned and developed consistent with the act are essential to the economic and social well-being of the people of the state. One of the basic goals of the act is to protect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.

In the California Coastal Commission’s 2003 review of the city’s land use plan resubmittal for certification, the commission identified specific ways the city’s character was changing, which included increasing home size, increased tree removal and greater lot coverage. Moreover, the commission specifically recommended a modification to include the following text:

“The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special

community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics.”

Public Resources Code (PRC) Section 30251 states in part, the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. New development in highly scenic areas shall be subordinate to the character of its setting. PRC Section 30253(e) states that where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

In 2018, the Coastal Commission adopted a De Minimis Amendment Determination certifying the city’s Local Coastal Program (LCP) amendment adopting our local ADU ordinance (City County Ordinance No. 2017-010). PRC Section 30514(d)(1) allows the Executive Director of the Coastal Commission to determine that a proposed LCP amendment is de minimis if the amendment would have no impact on coastal resources and is consistent with the policies in Chapter 3 of the Coastal Act. The commission found that implementation of the city’s ADU ordinance requires ADUs to conform with all applicable requirements of the underlying residential zoning district in which they are allowed, including with respect to height, setback, lot coverage, floor area ratio, landscaping, and historic preservation requirements, and was therefore adopted as a de minimis amendment.

Staff Analysis:

Proposed ADU Types and Permit Requirements

The purpose of this workshop is to provide a less technical and more conversational approach to ADUs, specifically how ADUs are proposed to be reviewed. The three “tracks” of ADU review are proposed to be tiered by the levels of potential impacts to coastal resources. Type 1 would have the lowest impact and Type 3 would have the greatest likely hood of impacting a resource and warrant a higher level of review.

ADUs would require permit approvals as listed below:

Type 1 == Building Permit Only

Type 2 == Track 1 Major Design Study/Review (Planning Department Review) and Administrative Coastal Development Permit (Planning Department Review)

Type 3 == Track 2 Design Study/Review (Planning Commission Review) and Coastal Development Permit (Planning Commission Review)

Type 1 projects would generally involve no changes to the existing structure (i.e. conversion of existing floor area) and therefore these projects would only require a building permit and would not require a Coastal Development Permit pursuant to [CMC section 17.52.100](#).

Current city practice is to require a discretionary planning application for all exterior

changes made to a residence, however, a waiver from any type of planning review is proposed provided objective design standards are followed for additions to windows and doors needed to facilitate a ADU associated with a Type 1 unit. This proposed amendment would streamline current practice by eliminating a planning entitlement that would generally be required all together and only requiring a building permit.

Alterations to the building could be made through the use of future objective Design Standards in lieu of the existing discretionary Residential Design Guidelines.

Type 2 projects are most similar to the ADUs described in the city's existing ordinance, [CMC section 17.08.050.G](#), in that the units must comply with all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of this chapter, including but not limited to height, setback, and floor area ratio. The current ordinance requires that detached units have a height of no more than twelve feet and have no more than 600 square feet of floor area, for example. This proposed ordinance would loosen current ADU regulations ([CMC section 17.08.050.G](#)) to better align with the underlying zoning and the current provisions in the state statute. Type 2 ADUs would require an Administrative CDP (reviewed at the staff level) through a process similar to a Track 1 Major Design Review/Study which is currently implemented in the LCP -the deviation in the typical of review being the use of objective design guidelines and a waiver of all public hearings.

The Type 2 incentivizes ADU development by allowing for the creation of an ADU within the floor area limits of a property without the need for public hearing as may otherwise be required for a smaller scope of work for an addition to the single family residence.

For example: an applicant with an existing 1,500 square foot residence proposing a 150+ square foot addition to their home would be subject to the requirements of a Track 2 Design Study and required to receive approval by the Planning Commission.

That same applicant could construct an ADU between 150-300 square feet with only an administrative CDP (any larger would become a Type 3 unit). The goal of the Type 2 unit is to incentivize a streamlined track for smaller ADUs which are consistent with the LCP, the underlying zoning for the site, and established community character.

Type 2 ADUs strike a balance between the state statute requirements of the LCP and the Coastal Act.

Type 3 projects are ADUs that would have the potential to conflict with the Goals, Objectives, or Policies of the city's LCP, or where potential impacts to Coastal Resources exist if not properly addressed through a discretionary review.

In practice, a Type 3 ADU may be allowed up to 800 square feet above the floor area for the site, just as suggested in the state statute (state exempt ADU - Government Code Section 66321(b)(3)). The permit review for the ADU would be completed through the city's standard Track 2 Design Study process (CMC section 17.58.040.B). In compliance with the California Coastal Act, potential conflicts with the city's coastal resources would require review through a Coastal Development Permit where the Planning Commission would be the appropriate authority. The additional 800 square

feet above the floor area for the site would only be allocated to the ADU and not to any portion of the primary dwelling.

The purpose of the discretionary review would be to ensure there are no impacts to Coastal Resources, including but not limited to: Community Character, Scenic Resources, Historic Resources, Archaeology, Water Quality, and Public Access and Recreation. As part of the Design Review process, the appropriate decision making body, Planning Commission, is required to make the following findings that would ensure that development is consistent with the LCP and the Coastal Act.

This track maximizes development potential, consistent with the provisions of the state statute, while at the same time ensures coastal resources are protected through the city's discretionary review process consistent with the provisions of the city's LCP.

Draft Ordinances

The attached draft ordinance version 2.5 (**Attachment A**) incorporates the suggested modifications directed by the Planning Commission to provide an ordinance that includes a comprehensive and all-inclusive set of ADU regulations. While this draft includes all details relevant to ADUs, staff has suggested modifications intended to trim the ordinance and make it more user friendly. In this proposed draft, staff began with the existing ordinance in [CMC section 17.08.050.G](#) and updated it to incorporate state law requirements (see **Attachment B**).

Additional Local Coastal Program Amendments

There shall be vertical consistency throughout the LCP and specific to ADUs, amendments are required to achieve consistency between the Land Use Plan's Land Use and Community Character Element and Implementation Plan Title 17. As discussed above, the city cannot preclude a state exempt ADU. As such, LUP Policy P1-49 language (see below) shall be modified.

P1-49: Limit above-grade floor area on 4,000 square foot lots to a maximum of 1,800 square feet. Projects with less above-grade square footage shall be preferred. Structural coverage shall not exceed 45% of the site. Total site coverage (structural and other impermeable coverage) on 4,000 square foot lots shall not exceed 55% of the site. Locate open space so that it visually links with adjacent properties. (LUP)

The draft ADU ordinance introduces an Administrative Coastal Development Permit. Type 2 ADUs would involve development and/or intensify land use of a residential property. However, such development would meet the height, site coverage and floor area limitations of the underlying zoning district. This administrative process would allow review of development to ensure consistency with the LCP at the staff level. CMC Chapter 17.52 - Permit Procedures will need to be amended to include a new section outlining the process for Administrative Coastal Development Permits.

Other Project Components:

Environmental Review: Not Applicable. As a workshop on a draft ordinance and, this action will not result in a direct or indirect physical change in the environment. Nothing

is being approved by the Planning Commission. Therefore, the action does not qualify as a “project” as defined in section 15378 of the CEQA Guidelines, and is not subject to environmental review.

ATTACHMENTS:

1. Attachment A-1 - Draft Ordinance (Clean)
2. Attachment A-2 - Draft Ordinance (Redline)
3. Attachment B-1 - Draft Alternative Ordinance (Clean)
4. Attachment B-2 - Draft Alternative Ordinance (Redline)
5. Attachment C - ADU Analysis (from November 13, 2024 workshop)
6. Attachment D - November 13, 2025 Agenda Packet
7. Attachment E - Errata Memo for ADU workshop #3

- 17.ADU.010 Definitions.**
- 17.ADU.020 Purpose and intent**
- 17.ADU.030 Applicable Zoning Districts**
- 17.ADU.040 Development Standards for ADUs of Single Family Properties.**
- 17.ADU.050 Development Standards for ADUs of Multi-Family Properties.**
- 17.ADU.060 Junior Accessory Dwelling Units**
- 17.ADU.070 Design Review.**
- 17.ADU.080 Accessory Dwelling Units, General.**
- 17.ADU.100 Coastal Resource Protection**
- 17.ADU.110 Application and Review Procedure.**

17.ADU.010 Definitions

As used in this chapter, terms are defined as follows. Terms not defined below shall take the definition as otherwise defined in Title 17 of the Carmel Municipal Code (CMC).

- A. **Accessory Dwelling Unit (ADU).** “Accessory Dwelling Unit” or “ADU” means an attached or a detached residential dwelling unit that provides complete independent living facilities and permanent provisions for living, sleeping, eating, cooking, sanitation, and connection to utilities for one or more persons and is located on a lot with a proposed or existing primary residence or multi-family residences. An ADU also includes the following: An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, as may be amended; and a manufactured home, as defined in Section 18007 of the California Health and Safety Code, as may be amended. ADUs do not include mobile homes, tiny homes, or recreational vehicles licensed by the Department of Motor Vehicles (DMV).
 - 1. **Attached.** An "Attached ADU" means an ADU that is constructed as a physical expansion (i.e. addition) to the primary dwelling. An attached ADU does not qualify as a conversion ADU. An attached ADU may be attached to the Single-Family Dwelling Unit by one or more common walls or other means but shares a physical connection. An attached ADU is distinct from the definition of a junior ADU.
 - 2. **Detached.** A "Detached ADU" means an ADU that is constructed as an independent structure entirely separate from and sharing no physical connection to the primary dwelling unit and/or other accessory structures.
 - 3. **Conversion.** A “Conversion ADU” means an ADU that is constructed completely within the existing or proposed space of a single family residence, an existing detached accessory structure, or an existing multi-family structure. Conversion ADUs are located completely within the existing or proposed floor area of the structure in which they are located, except for expansions for ingress and egress as allowed within this chapter.
- B. **Accessory Structure.** A structure that is accessory and incidental to a dwelling located on the same site.

- C. **Administrative Review (Administrative; Administratively).** A review which may include discretion or use of personal judgement that does not require consideration or approval at a public hearing.
- D. **Available Floor Area.** “Available Floor Area” refers to the portion of the allowable floor area remaining for development on a property after accounting for the floor area of all existing and proposed structures. This calculation includes primary dwellings, accessory dwelling units (ADUs), and any other accessory structures, ensuring the total development adheres to zoning regulations.
- E. **Delete?**
- F. **Coastal Access Parking Area.** The Coastal Access Parking Area is defined as all properties located within the Beach and Riparian (BR) Overlay District located west of the centerline of Carmelo Street and west of the centerline North San Antonio Street, as well as all properties with street frontages located on San Antonio Avenue or North San Antonio Avenue.
 - 1. If a property is not located immediately adjacent to a street frontage (flag lot, easements, etc.), the frontage shall be determined by the driveway location of the subject property.
- G. **Coastal Development Permit.** A Coastal Development Permit (CDP) is the regulatory mechanism by which proposed developments in the coastal zone are brought into compliance with the policies of Chapter 3 of the Coastal Act.
 - 1. Note: The policies applicable to the City of Camel of Chapter 3 of the Coastal Act have been incorporated into the city’s certified Local Coastal Program.
- H. **Floor Area Limits.** “Floor Area Limits” refers to the maximum allowable floor area for all structures on a property, including but not limited to primary dwellings, accessory dwelling units (ADUs), and other accessory structures.
- I. **Historic Resource.** For purposes of this section, a Historic Resource shall be a property listed, or eligible for listing, on the National Register of Historic Places or the California Register of Historical Resources, listed on the Carmel Inventory or Register of Historic Resources, or located in a designated historic district.
- J. **Junior Accessory Dwelling Unit** (Also known as "Junior ADU" or "JADU"). A unit that is no more than 500 square feet in size and contained entirely within an existing or proposed single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- K. **Manufactured Home.** A unit as defined by Section 18007 of the California Health and Safety Code, as may be amended.
- L. **Ministerial Review (Ministerially).** A review that does not require discretionary action or review, personal judgement, or a public hearing.

- M. **Passageway.** A pathway that is unobstructed clear to the sky (i.e.: uncovered) and extends from a street to one entrance of the ADU or JADU.
- N. **Primary Dwelling.** A "Primary Dwelling" or "primary residence" means a single-family or multifamily residential dwelling unit that either exists on or is proposed for a lot zoned for any residential or mixed-use zone, either through a permitted use or a conditional use, and is constructed prior to or concurrently with the ADU or JADU. The primary dwelling shall include all attached non-habitable areas, such as attached garages, but does not include detached accessory structures on the same building site.
1. **Multi-Family Dwelling.** A structure with two or more attached dwellings on a single lot, and any mixed use structure containing commercial floor area and one or more dwelling units. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings, nor are subordinate units, or existing ADUs.
 2. Condominium units shall be defined as single family or multi-family based on the parcel map that defines the space of the primary dwelling. Common area(s) or common space(s) shall not be considered part of a primary dwelling.
- O. **Proposed dwelling.** A dwelling that is the subject of a permit application and that meets the requirements for permitting.
- P. **Sanitation Facilities.** Sanitation facilities means a room containing a toilet, sink, and bathtub or shower. Sanitation facilities may also be referred to as a bathroom or restroom.
- Q. **Subordinate Units.** The city has previously classified two types of subordinate dwellings:
1. Legal nonconforming units that were established prior to June 5, 1929. These units were legally established and required no permit. These units were originally classified as subordinate units.
 2. Legal nonconforming units that were established prior to April 5, 1988, and registered with the City by December 6, 1994. These units typically were built without City approval but were then legalized and brought to minimum health and safety standards through an amnesty period and registration. These units were originally classified as subordinate units.

17.ADU.020 Purpose, Intent, and Findings.

- A. To enact regulations governing Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) construction in compliance with Sections 66310 – 66342 of the Government Code, or any successor statute, and in compliance with the California Coastal Act and the City's Local Coastal Program. The provisions of this article shall be liberally construed in order to accomplish development of ADUs and JADUs. In the event of a conflict between the provisions of this article and any other ordinance of the City of Carmel-by-the-Sea regulating ADUs or JADUs, the provisions of this article shall prevail.

- B. To establish a process for review and approval of ADUs and JADUs. No local ordinance, policy, or regulation other than this article and regulations referenced therein shall be the basis for the denial or delay of a building permit for an ADU or JADU.
- C. The provisions of this chapter shall only be applicable to the establishment of ADUs and/or JADU (that being the establishment of the dwelling unit). Other improvements made to the site, including but not limited to, improvements to the primary dwelling, site coverage improvements/modifications, decks, patios, landscaping, grading, parking, shall be undertaken in accordance with the applicable regulations and procedures in the Carmel-by-the-Sea Municipal Code unless expressly authorized in this chapter.
- D. To provide for additional affordable housing opportunities without a commitment of public funds which are usually necessary to subsidize large-scale affordable housing development projects.
- E. To provide for convenient child care opportunities within residential neighborhoods. For working-age residents with children, ADUs allow family members or other child care providers to reside in proximity to the household requiring child care. The nearby availability of child care for their children offers working-age residents convenience, and more importantly, may enable them to work and support their families without the burden of commercial child care costs.
- F. To provide for convenient elder care opportunities within residential neighborhoods. ADUs and JADUs enable multi-generational living on a common site. As Carmel's population ages, ADUs and JADUs allow family members or other caregivers to reside in proximity to those receiving care while affording them the privacy of their own living space. For those receiving care, ADUs and JADUs will enable many to remain in their homes longer than would otherwise be possible without needing to relocate to an assisted living or other facility.

17.ADU.030 Applicable Zoning Districts.

- A. An ADU that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The ADU shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
 - 1. *Community Plan and Specific Plan Area.* The provisions of subsection (A), above, shall apply to sites zoned as Community Plan or Specific Plan areas where the approved development plan includes residential uses as a permitted use, including mixed use. In cases where the details of the original development plan are not available, the Director may determine whether a site was intended for residential use as a permitted use by considering the use of any existing structures on the site in addition to the uses of structures and the development pattern of the area immediately surrounding the site.

17.ADU.040 Development Standards for ADUs on Single Family Properties.

The following standards apply to ADUs and JADUs on all properties within all zoning districts that allow single-family dwellings developed with an existing or proposed single family dwelling.

- A. Location – Single Family.

1. Number of ADUs. A maximum of one (1) ADU, and one (1) JADU shall be allowed on a site developed with a single-family residence.
 - a. One (1) additional ADU shall be permitted on a building site when the existing or proposed units are limited to: one (1) conversion ADU, one (1) detached ADU, and one (1) JADU.
 - b. JADUs are allowed consistent with Section 17.ADU.060.
2. Location on site. An ADU may be attached to, detached from, or located within the existing or proposed primary dwelling on the same building site. An ADU may also be converted from a garage or other existing accessory structure on the same building site as the existing primary dwelling.

B. Floor Area – Single Family.

1. The floor area of an ADU and/or JADU is included in any other floor area limitation in this Title that is applicable to an attached or detached accessory building for the housing type and in the base zone in which the lot is located.
2. Notwithstanding CMC Section 17.ADU.030.B.1, an 800 square foot floor area allowance may be granted exclusively for the creation of an attached or detached Type 3 ADU, as described in Section 17.ADU.110.B.1.c.
3. For the purposes of development of other structures on the property, the floor area of an existing ADU shall be counted in the calculation of the property's total lot coverage and floor area ratio.
4. The floor area of an ADU shall not exceed the floor area of an existing or proposed primary dwelling.
 - a. Exceptions for attached and detached units: If the existing or proposed primary dwelling is 800 square feet or less, the ADU may be allowed a maximum of 800 square feet regardless of such condition, as provided in Section 17.ADU.030.C.1.a.

C. Unit Size – Single Family. The standards below provide the maximum and minimum unit sizes for ADUs. Establishment of an ADU within these standards shall require available floor area for establishment of the unit consistent with Section 17.ADU.040.B, above.

1. New Construction Attached ADU. An ADU attached to the primary dwelling shall have a minimum floor area of 150 feet, and shall not exceed 50 percent of the existing floor area of the primary dwelling.

- a. If the square footage of the primary dwelling does not allow for an attached ADU of at least 800 square feet, a maximum allowance of 800 square feet may be granted for the unit size of the attached ADU.
 - b. An attached garage shall be included in the square footage of the primary dwelling whether a portion of the garage is converted to an ADU or demolished as part of the establishment of the ADU, or not.
 2. New Construction Detached ADU. A detached ADU shall have a minimum square footage of 150 square feet, and shall not exceed 850 square feet, except for an ADU that provides more than one bedroom, which shall not exceed 1,000 square feet.
 3. Conversion ADUs. A conversion ADU shall have a minimum floor area of 150 square feet. The maximum floor area of an ADU that converts a portion of a primary dwelling shall be no more than 50% of the existing floor area of the dwelling being converted. An ADU that is created through the conversion of an existing detached accessory structure shall have no size restriction (i.e. the entire detached accessory structure may be converted regardless of the size).
 - a. For the full conversion of accessory structures, an expansion up to an additional 150 square feet may be allowed if necessary for ingress and egress only as required by the City's Building Code. The 150 square foot addition shall comply with all setbacks and height limits of the underlying zone district.
- D. Height Limits – Single Family. The maximum height of an attached or detached new ADU shall not exceed the following limits:
1. New Construction: ADUs constructed on the site of an existing or proposed single-family dwelling shall comply with the plate and ridge heights established in table 17.10-C located in CMC Section 17.10.030.B.
 - a. Limitations. The maximum ridge height for all new ADUs shall be sixteen (16') feet with a maximum twelve (12') plate height in the following instances:
 - i. The maximum height of the primary dwelling unit is sixteen (16') feet or less; or
 - ii. Any portion of an ADU is located between a primary dwelling unit and a front setback line of the site.
 2. For a conversion ADU (without an expansion): the ADU shall be contained completely within the existing structure, and maintain the existing height of the converted structure.
 - a. An expansion up to an additional 150 square feet may be allowed if necessary for ingress and egress only as required by the City's Building Code. The 150 square foot addition may not exceed the plate and ridge heights of the existing accessory structure.
- E. Setbacks – Single Family.

1. New Construction: Attached and detached ADUs shall comply with the setback requirements set forth in the zoning district in which the ADU is located including any applicable overlay district in which the subject property is located except as provided in this subsection.
 - a. Detached ADUs shall not be subject to composite setback requirements prescribed in CMC Section 17.10.040.A.
2. For a conversion ADU (without an expansion): No setback shall be required for conversion ADUs provided the structure maintains an adequate setback required for fire safety and access as determined by the Building Official and/or Fire Marshall.
 - a. An expansion up to an additional 150 square feet may be allowed if necessary for ingress and egress only as required by the City's Building Code. The 150 square foot addition shall comply with all minimum setbacks limits described above.

F. Parking – Single Family.

1. No parking shall be required for an ADU except for as provided in the Coastal Access Parking Area, described in Section 17.ADU.100.C.6, where on-site parking shall be provided for all ADUs.
2. Except for as required in the Coastal Access Parking Area, when the required parking serving a primary dwelling is demolished for the purpose of establishing an ADU, replacement parking for the primary dwelling shall not be required.
 - a. This provision shall not apply for demolition and/or reconstruction of existing dwellings.
 - b. This provision shall not apply to JADUs, as described in Section 17.ADU.060.F.
 - c. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be voluntarily provided as replacement parking for the primary dwelling and approved administratively as part of the permit application for the ADU. The parking pad shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC Section 12.24.020.A through L are otherwise met.
 - i. Replacement garages or carports voluntarily provided shall be subject to Design Review pursuant to CMC Chapter 17.56 and shall be required to comply with applicable floor area and site coverage limitations for the site.
3. Development resulting in a loss of off-street parking shall render the site non-conforming, as described in CMC Section 17.10.040.F.2.d, if the site does not conform to parking requirements.

- G. Design Review – Single Family. All ADUs shall be subject to the provisions outlined in Section 17.ADU.070, Design Standards.

17.ADU.050 Development Standards for ADUs on Multi-Family Properties.

The following standards apply to ADUs and JADUs developed on multi-family residential properties or mixed-used developments at any density:

A. Location – Multi-Family.

1. Number of ADUs. For all existing multi-family or mixed-use developments, subsections (a) through (c) below shall apply.
 - a. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space:
 - i. The equivalent number of twenty-five (25%) percent of the existing multi-family dwelling units (no less than one (1) unit).
 - b. ADUs detached from existing or proposed multi-family dwelling structures :
 - i. Up to two (2) ADUs
 - ii. For the purpose of this subsection, a detached ADU shall mean an ADU that is detached from the multi-family dwelling, and shares no common physical connection with a commercial use or occupancy, if located on a mixed-use property or development.
 - c. JADUs shall not be permitted in multi-family or mixed-use use developments.
2. Location on site.

- a. ADUs may be located within the portion of existing multi-family dwelling structures that are not used as livable space including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
 - i. In mixed-use buildings, the non-livable space used to create an ADU or ADUs shall be limited to the residential areas of a mixed-use development, and not the areas used for commercial or other activities. The parking and storage areas for these non-residential uses shall also be excluded from potential ADU development.
- b. ADUs may be detached from an existing or proposed multi-family dwelling structure and all accessory structures including, without limitation, garages and storage areas on the same site

B. Floor Area – Multi-Family.

1. The floor area of an ADU is included in any other floor area limitation in this Title that is applicable to a detached accessory building for the housing type and in the base zone in which the lot is located.

- a. Notwithstanding CMC Section 17.ADU.030.B.1, an 800 square foot floor area allowance may be allowed exclusively for the creation of a detached Type 3 ADU, as described in Section 17.ADU.xxx.
 2. For purposes of development of other structures on the property, the floor area of an existing ADU shall be counted in the calculation of the property's total lot coverage and floor area ratio.
 3. The floor area of an ADU shall not exceed the floor area of an existing or proposed primary dwelling.
 - a. Exceptions for attached and detached units: If the existing or proposed primary dwelling is 800 square feet or less, the ADU may be allowed a maximum of 800 square feet regardless of such condition, as provided in Section 17.ADU.030.C.1.a.
- C. Unit Size – Multi-Family. The standards below provide the maximum and minimum unit sizes for ADUs on multifamily properties. Establishment of an ADU within these standards shall require available floor area for establishment of the unit consistent with Section 17.ADU.050.B, above.
1. ADUs contained within the enclosed space of an existing multi-family dwelling that is not used as livable space:
 - a. The minimum size of the ADU shall be 150 square feet. The maximum size of an ADU that is a conversion of a portion of the existing multi-family dwelling structures that are not used as livable space shall have no a maximum size requirement.
 2. Detached ADUs detached from existing multi-family dwelling structures:
 - a. New Construction Detached ADU. A detached ADU shall have a minimum floor area of 150 square feet, and shall not exceed 850 square feet, except for an ADU that provides more than one bedroom, which shall not exceed 1,000 square feet.
- D. Height Limits – Multi-Family. The maximum height of a detached new ADU on a multifamily property shall not exceed the following limits:
1. The height limit for detached ADUs is sixteen (16') feet if the multifamily dwelling is one story, or eighteen (18') feet if the multifamily dwelling contains more than one story.
 2. For ADUs contained within the portion of existing multi-family dwelling that is not used as livable space, the height will not exceed that of the existing space being converted.
- E. Setbacks – Multi-Family.
1. New Construction: Detached ADUs on multifamily properties shall comply with the setback requirements set forth in the zoning district in which the ADU is located including any applicable overlay district in which the subject property is located except as provided in this subsection.

- a. An ADU shall comply with the front yard setback requirements of the applicable zoning district, except for when an existing structure is converted and maintains its existing non-conforming setback.
 - i. Detached ADUs shall not be subject to composite setback requirements prescribed in CMC Section 17.10.040.A.
 - 2. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space: No setback shall be required for conversion ADUs provided the structure maintains an adequate setback required for fire safety and access as determined by the Building Official and/or Fire Marshall.
- F. Parking – Multi-Family.
 - 1. No parking shall be required for an ADU except for as provided in the Coastal Access Parking Area, described in Section 17.ADU.100.C.6.
 - 2. Except for as required in the Coastal Access Parking Area, if the required parking serving a primary dwelling is demolished for the purpose of establishing an ADU, replacement parking for the primary dwelling(s) shall not be required.
 - a. This provision shall not apply for demolition and/or reconstruction of existing dwellings.
- G. Design Review – Multi-Family. All ADUs shall be subject to the provisions outlined in Section 17.ADU.070, Design Review.

17.ADU.060 Junior Accessory Dwelling Units.

Junior Accessory Dwelling Units. JADUs shall conform with the following:

- A. A JADU shall be a minimum of 150 square feet, not exceed 500 square feet in size and shall contain at least an efficiency kitchen, which includes cooking appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the JADU.
- B. A JADU shall have a separate exterior entrance from the single-family dwelling.
- C. The JADU may, but is not required to, include separate sanitation facilities. If separate sanitation facilities are not provided, the JADU shall share sanitation facilities with the single-family residence. If sanitation facilities are provided as part of the primary dwelling, the JADU shall maintain interior access to the primary dwelling.
 - 1. If a shared sanitation facility is provided with the primary dwelling, the shared sanitation facility shall:
 - a. Be in immediate close proximity to JADU;

- b. Be accessible from the JADU without entering a separate room within the primary dwelling (accessible via a communal hallway or corridor) and without exiting to the exterior of the dwelling;
 - c. Be counted as part of the square footage of the unit (only the JADU and sanitation facilitation shall be considered in the floor area calculation; the communal corridor or hallway shall not be considered).
- D. Unless the property is owned by a governmental agency, land trust, or housing organization, one of the dwellings on the parcel (either the primary dwelling or JADU) must be the bona fide principal residence of at least one legal owner of the parcel, as evidenced at the time of approval of the JADU by appropriate documents of title and residency.
- E. Prior to issuance of a building permit for a JADU, the owner shall record a covenant in a form prescribed by the city, which shall run with the land and provide for the following. A copy of the recorded covenant shall be filed with the Community Planning and Building Department prior to issuance of a building permit. The covenant shall include the following information:
 - 1. A prohibition on the sale of the JADU separate from the sale of the single-family residence;
 - 2. A restriction on the size and attributes of the JADU consistent with this section;
 - 3. A prohibition against renting the property for fewer than 30 consecutive calendar days; and
 - 4. A requirement that either the primary residence or the JADU be the owner's bona fide principal residence, unless the owner is a governmental agency, land trust, or housing organization.
- F. Parking is not required for JADUs. However, if an existing attached garage is replaced by a JADU, each removed required parking space must be replaced with an off-street parking space that complies with the requirements of the underlying zoning district.

17.ADU.070 Design Review.

The following shall apply to the design and exterior appearance for all ADUs and JAUDs.

- A. Type 1 and Type 2 Units:
 - a. The unit(s) shall comply with all applicable Administrative ADU Design Standards adopted by the Planning Commission. The Planning Commission may develop, and from time to time amend, the Administrative ADU Design Standards provided the standards set forth for ADUs are objective and the criteria can be evaluated without discretion.
 - b. In the absence of adopted Administrative ADU Design Standards, the accessory dwelling shall be constructed with exterior materials that have the same texture and appearance to the primary dwelling, including but not limited to roofing, siding, paint color, windows and doors.

B. Type 3 Units:

- a. The unit(s) shall comply with the City's adopted Residential Design Guidelines and requirements as provided in CMC Section 17.58.040.B, Residential Track 2 Design Study.

17.ADU.080 Accessory Dwelling Units, General.

The following standards and requirements apply to all ADUs and JADUs:

- A. Permit Required. No person shall develop, construct, cause to be rented, or occupy an ADU or JADU on any lot within the city unless a building permit and associated approvals are obtained by the Community Planning and Building Department pursuant to the procedures and standards set forth in this chapter.
 1. Prior to building permit issuance, the building official shall find that all local building code requirements have been satisfied, except that the construction of an ADU shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was uninhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.
 2. Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Section [30000](#) et seq. of the Public Resources Code) or the City's certified local coastal plan, and the City shall modify and condition accessory dwelling unit coastal development permits accordingly to ensure consistency with such requirements.
- B. Certificate of Occupancy. A certificate of occupancy for an ADU or JADU shall not be issued before the issuance of a certificate of occupancy for the primary dwelling.
- C. Site Requirements. The building site is zoned to allow single-family or multifamily dwelling residential use and the lot must contain a proposed or existing single-family dwelling, or existing multifamily dwelling. Notwithstanding any provision of this code to the contrary, an ADU shall be a permitted use in any zone where a single-family or multifamily dwelling is permitted.
 1. Prohibited Locations.
 - a. The establishment of an ADU or JADU shall not be allowed through any permit or license on any building site where sufficient water to support the ADU or JADU is not available for the site.
 - b. The establishment of an ADU or JADU shall not be permitted on any portion of a building site not considered as part of the "buildable area" of a site, as defined in CMC Section 17.70.020.

- c. The establishment of an ADU or JADU shall not be allowed through any permit or license on any building site located within the Very High Fire Hazard Severity Zone (VHFHZ) unless equipped with a fire sprinkler system approved by the Fire Marshall.
- D. Fire Sprinklers. Notwithstanding any other provision of the Carmel Municipal Code, installation of fire sprinklers in an ADU of any type shall be required only if they are required for the primary dwelling unit. The construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling except as provided below.
 - 1. Fire sprinklers shall be considered "required for the primary dwelling unit" in any of the following circumstances:
 - a. When fire sprinklers are currently installed in the primary dwelling unit;
 - b. When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an ADU; or
 - i. For purposes of this subsection (1)(b), the term "constructed concurrently" shall mean construction of a primary dwelling unit that is performed in reliance on a building permit issued within two (2) years of the date of issuance of a building permit for construction of an ADU.
 - c. When fire sprinklers will be installed in an existing primary dwelling unit as the result of an addition to the primary dwelling unit which addition triggered a requirement for retroactive installation of fire sprinklers in the primary dwelling unit in accordance with SOG 23-01, Determining Fire Sprinkler Retrofit Requirements, and the Carmel Municipal Code, and the permit application also includes the establishment of an ADU; or
 - d. The existing building site is located within the Very High Fire Hazard Severity Zone (VHFHZ) pursuant to CMC Section 17.ADU.080.C.1.c.
 - 2. The floor area of an ADU contained within the existing space of a single-family dwelling or accessory structure or multi-family dwelling shall not be considered an "addition" under any provision of the Carmel Municipal Code related to retroactive installation of fire sprinklers in a structure.
- E. Deed Restriction. Prior to issuance of a building permit for an ADU, the owner shall record a covenant in a form prescribed by the city, which shall run with the land. A copy of the recorded covenant shall be filed with the Community Planning and Building Department prior to issuance of a building permit. The covenant shall include the following information:
 - 1. A prohibition on the sale of the ADU separate from the sale of the single-family residence except as authorized in Gov. Code, §65852.26;

2. A restriction on the size and attributes of the ADU consistent with this section; and
 3. A prohibition against renting the property for fewer than 30 consecutive calendar days.
- F. Drainage. Permit applications for the creation of a new attached or detached ADU shall comply with the requirements of CMC Chapter 15.18, Site Drainage.
- G. Utilities. An ADU may have shared or separate utility services (i.e., an electrical and/or gas meter) from the primary dwelling.
- H. Rental Term. Rental of any unit created pursuant to this chapter shall be for a term of 30 days or more.
- I. No Separate Conveyance. The ADU may be rented separate from the primary residence but may not be sold or otherwise conveyed separate from the primary residence except as authorized in Gov. Code, §65852.26.
- J. Story Poles. Story poles shall be installed consistent with the city's Story Pole Policy (Resolution 2017-122) for all ADUs that require a Coastal Development Permit where any addition of floor area or building height is proposed.
- K. Transient Rental, Housing Incentive. An ADU created pursuant to this chapter shall not constitute construction of a new rental unit as described in CMC Section 17.14.040.W.2, Transient Rental, Housing Incentive.
- L. Mills Act. An ADU or JADU proposed on a property subject to a Mills Act Contract must comply with the provisions of the contract, including conformance to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, the United States Secretary of the Interior's Standard for Rehabilitation, the California Historical Building Code, and the city's Historic Preservation Ordinance.
- M. Access.
1. Exterior access. The ADU and/or JADU shall have exterior access independent of the main unit.
- N. Building Separation. No minimum distance is required between structures. An ADU shall be considered attached to the primary dwelling unit or any other building when there is a common wall, common roof, or a horizontal connection at least thirty (30") inches above grade. Horizontal connections, including but not limiting to, retaining walls and/or decking between an ADU and the primary dwelling unit or any other building that are less than thirty (30") inches above grade are not considered a connection.
1. It is recommended a minimum of three (3') foot wide clear path of travel be maintained between buildings.
- O. Passageway. No passageway shall be required in conjunction with the construction of an ADU.

P. Standards for Accessory Structure Conversions.

1. If a legally permitted accessory structure is demolished for the purpose of converting the structure to an ADU with the same dimensions, including but not limited to floor area, height, roof pitch, setbacks, the ADU can be rebuilt on the footprint of the existing accessory structure. A structure that is reconstructed beyond any of the existing dimensions of the existing structure shall not be considered a conversion and be subject to the applicable standards for a new detached ADU, except that a 150 square foot addition for ingress and egress may be allowed.
 - a. When a legally permitted existing accessory structure is demolished for the purpose of converting the structure to an ADU, a survey, prepared by a California Licensed Surveyor or Engineer, shall be submitted with the building permit application certifying the following prior to demolition of the subject structure:
 - i. [CRITERIA TBD]
2. Carport Conversion. When a carport is converted, an “imaginary wall plane” will be drawn around the exterior of the existing support posts. That wall plane becomes the exterior walls/footprint for the purposes of the conversion. An ADU cannot be expanded beyond that wall plane.
3. Demolition Permits. A demolition permit for a detached garage that is to be replaced with an ADU shall be reviewed with the application for the ADU and issued at the same time as the ADU.

Q. Subordinate Units

1. A nonconforming subordinate unit may be converted to a permitted ADU or JADU upon submittal of a building permit application demonstrating the unit meets the requirements outlined in this chapter for either an ADU or JADU, as appropriate, including evidence the unit was originally classified as a subordinate unit. All fees assessed by the city shall be waived for the conversion of a subordinate unit to an ADU or JADU provided there are no other building permits proposed as part of the application.
 - a. The property owner shall remove any covenants or restrictions associated with the subordinate unit as part of the building permit application. If covenants or restrictions are to be removed, said restriction shall be rescinded prior to a certificate of occupancy for the newly established ADU.

R. Non-Conformities.

1. The city shall not deny an application for a permit to create an ADU due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the ADU.

2. A non-conforming detached accessory structure may be re-built or re-constructed in-kind pursuant to Section 17.ADU.070.T.1. Demolished non-conformities may be re-built or re-established provided the reconstruction is for the benefit of the ADU only, and non-conformities are not expanded.

17.ADU.100 Coastal Resource Protections.

- A. Purpose : The purpose of this title is to harmonize the requirements of Government Code Sections 66310-66342, with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code as provided in Government Code Section 66329.
- B. Findings:
 1. The entirety of the City of Carmel-by-the-Sea is located within the boundary of the Coastal Zone. The City's Local Coastal Program was certified by the California Coastal Commission in October of 2004. In accordance with Government Code Section 66329, the California Coastal Act of 1976 is neither superseded nor in any way altered or lessened except that a public hearing for Coastal Development Permit applications for ADUs shall not be required.
 2. A Coastal Development Permit is required for all new development within the Coastal Zone. As defined by the Coastal Act, development refers to both "the placement or erection of any solid material or structure" on land as well as any "change[s] in the density or intensity of use of land[.]" (Pub. Res. Code § 30106.)
 3. A Coastal Development Permit (CDP) is the regulatory mechanism by which proposed developments in the coastal zone are brought into compliance with the policies of Chapter 3 of the Coastal Act.
 - a. The policies applicable to the City of Camel of Chapter 3 of the Coastal Act have been incorporated into the city's certified Local Coastal Program.
 4. The City's Land Use Plan describes the associated Land Use Chapters of the Local Coastal Program in the following manner:
 - a. **Land Use and Community Character.** This Chapter of the General Plan covers topics required in the Land Use Element. This heading also includes policies for topics in sections 30244 and 30250 through 30254 of the Coastal Act.
 - i. This Element integrates land use policies with issues of design, aesthetics and historic preservation as part of the Coastal Land Use Plan for the City.
 - b. **Circulation.** This Chapter or Element of the General Plan is one of the seven elements required by California Statutes. Several of the policies in this element also implement provisions of the Coastal Act.

- i. This element is a required element of the City's General Plan (Government Code Section 65302(b)). Many of the policies in this Element are also part of the Local Coastal Land Use Plan and are noted as such (LUP).
 - c. **Coastal Access and Recreation.** This Chapter includes policies for topics covered in sections 30210 through 30224 of the Coastal Act.
 - i. This Element includes policies to protect and enhance public access to the coast is mandated by the California Coastal Act.
 - d. **Coastal Resource Management.** This Chapter of the General Plan includes policies for topics in sections 30230 through 30243 and 30251 of the Coastal Act.
 - i. This element includes policies for protection of the City's coastal environmental resources including the character of its forest, beach and bluffs, water quality and Environmentally Sensitive Habitat Areas (ESHAs).
5. As described in the city's Land Use Plan, "The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics" (LUP).
- a. Coastal Act Section 30251 requires *"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting."*
 - b. Coastal Act Section 30253 requires: *"New development shall do all of the following:*
 - i. *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
 - ii. *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*
 - iii. *Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.*
 - iv. *Minimize energy consumption and vehicle miles traveled.*

- v. *Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses."*

6. ADUs are permitted on all building sites that allow for single-family and multi-family dwelling and there is no limitation in the total potential number of housing units created through ADUs based on the Coastal Resource Protections described herein or elsewhere in this ordinance.

C. Applicability: All ADUs and JADUs shall comply with the following requirements for the protection of coastal resources, as applicable:

1. Views. The incorporated limits of the City of Carmel-by-the-Sea is designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253. Accordingly, a proposed ADU shall:
 - a. Be cited and designed to protect views to and along the ocean and scenic coastal areas;
 - b. Minimize the alteration of natural land forms and work with the topography of the site;
 - c. Be visually compatible with the character of surrounding areas including, but not limited to: the type of forest resources present, the character of the street, the response to local topography and the treatment of open space resources such as setbacks and landscaping, and not presenting excess visual mass or bulk to public view or to adjoining properties.
2. Overlay Districts. Except as modified by this chapter, the ADU shall conform to all requirements of any applicable overlay district, including but not limited to established height limits, setbacks, environmental reports, described within CMC Chapter 17.20, except that no public hearing shall be required for Type 1 and Type 2 ADUs and the duties and powers designated to any board or commission shall be designated to the Director, as applicable, in the review of the ADU. Standard processing procedures outlined in Title 17 shall be followed, as applicable, for Type 3 ADUs.
 - a. Appealable Coastal Development Permits.
3. Historic Resources. An ADU or JADU proposed on a property with a historic resource shall be subject to the provisions outlined in CMC Chapter 17.32 except that no public hearing shall be required for Type 1 and Type 2 ADUs and the duties and powers designated to any board or commission shall be designated to the Director, as applicable, in the review of the ADU. Standard processing procedures shall be followed, as applicable for Type 3 ADUs. A Determination of Consistency with the Secretary of the Interior's Standards shall be required for all major and minor alterations, as appropriate.

4. Trees. No tree, as described in CMC Section 17.48.050.A.1.a or CMC Section 17.48.050.A.1.b, shall be removed or pruned for the purpose of establishing an ADU except in accordance with CMC Section 17.48.050.
 - a. Significant trees shall only be removed in accordance with CMC Section 17.48.070.B.
 - b. If trees are permitted by the City to be removed to facilitate the construction of an ADU that would otherwise preclude the development of an ADU replacement trees shall be provided on-site pursuant to CMC Section 17.48.080. Alternative locations may be approved by the city forester, as appropriate.
 - c. All compaction of soils, construction of building walls, or placement of impermeable surfaces shall be setback a minimum of six feet from all trees.
5. Non-Conforming Site Coverage. Within the R-1 Zone District, sites shall comply with the provisions of CMC Section 17.10.030.C.2, as applicable.
6. Coastal Access Parking Area. Project sites located within the Coastal access parking area, as illustrated in Figure 1, below, shall be required to provide one (1) on-site parking space per ADU in addition to any required parking to the primary dwelling.
 - a. Within the R-1 District, parking may be provided as an uncovered tandem space within the front or side yard setback located on the driveway in front of a garage or carport or elsewhere on the property where parking is allowed by the underlying zoning district.
 - i. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be provided ministerially for the ADU and shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC Section 12.24.020.A through L are otherwise met.
 - b. Within all districts other than the R-1 District, replacement parking shall follow the standards prescribed in CMC Chapter 17.38, off-street parking requirements.
 - i. Unless expressly specified in the Community Plan, Community Plan Districts shall comply with the provisions of CMC Chapter 17.38.

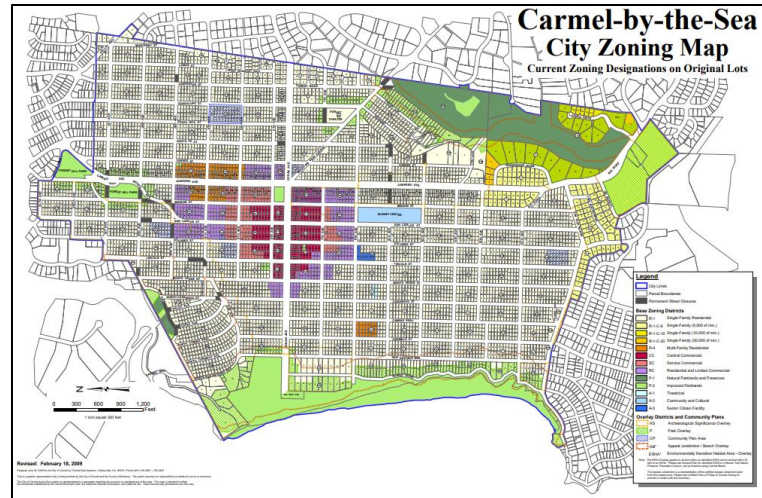


FIGURE 1. Coastal Access Parking Area [Map forthcoming].

7. Front Setback. Type 2 and Type 3 ADUs shall comply with the front yard setback requirements of the applicable zoning district including the front setback. Within the R-1 zoning district, new Type 3 ADUs may be established within the front yard setback when the findings for locating a garage/carport established in CMC Section 17.10.030.A. 1.a, are made in the affirmative through the appropriate CDP process, as applicable.
 - a. Type 1 ADUs may be located within a front setback when converted from an existing structure.
 - b. The requirements of CMC Section 17.ADU.040.C.3.a shall apply.
8. Additional Accessory Structures. Except as provided in CMC Section [17.10.040](#), Lot Mergers, no more than two accessory structures may be constructed on each building site.
9. Building sites with ADUs shall be prohibited from constructing, maintaining and/or building guesthouses or studios.

17.ADU.110 Application and Review Procedures.

A. Timing

1. The city shall ministerially approve or disapprove a complete building permit application for an ADU or JADU in compliance with the time periods established by State law. If a Coastal Development Permit is required, the Coastal Development Permit may be processed concurrently with the building permit application for the creation of the ADU/JADU, however, no building permit application shall be deemed complete until any required associated Coastal Development Permit has been approved.

B. Standard of Review

1. The following review procedures shall apply to all ADUs and JADUs:

a. Type 1 Units – Ministerial Review.

- i. The following types of units are classified as Type 1 units and are eligible for Type 1 review:
 - a. The conversion of an existing, legally established habitable space to an ADU and/or JADU within an existing primary dwelling, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure.
 - ii. ADUs that would otherwise qualify as a Type 1 unit that is located in the Coastal Access Parking Area, located on the site of a Historic Resource, or located within the Beach and Riparian Overlay shall be processed as a Type 2 Application.
 - iii. Type 1 Units shall be exempt from all Coastal Development Permit Requirements pursuant to Section 17.52.100 of this Title and shall be considered ministerially.

b. Type 2 Units – Administrative Review.

- i. The following types of units are classified as Type 2 units and are eligible for Type 2 review:
 - a. Attached and detached ADUs which comply with within floor area limits of the site, and/or
 - b. Type 1 units located in the Coastal Access Parking Area, located on the site of a Historic Resource, or located within the Beach and Riparian Overlay, and/or converted from nonhabitable space.
 - c. Any unit not specifically classified as a Type 3 unit.
- ii. All Type 2 units shall require approval of an Administrative Coastal Development Permit prior to building permit issuance.

c. Type 3 – Standard Review.

- i. The following types of units are classified as Type 3 units and are subject to Type 3 review:
 - a. Any ADU which receives a floor bonus/exemption of up to 800 sf above the allowable floor area for the site for the construction of an ADU,

unless converted from existing floor area on the site, and/or

- b. Any new attached or detached ADU located in the Beach and Riparian Overlay District west of San Antonio Avenue or west of North Carmelo Avenue.
 - c. Any new ADU proposed concurrently, and reliant on, a Track 2 Design Study/Review application for a new dwelling, rebuild, or substantial alteration of a primary dwelling.
 - d. Any ADU for which the applicant requests deviation from adopted standards described within this title.
- ii. All Type 3 units shall require approval of a Coastal Development Permit as follows:
 - a. Standard Review. Type 3 units shall be reviewed consistent with procedures outlined in CMC Section 17.58.040, as appropriate.
- 2. Ministerial Review. Applications for ADUs and/or JADUs on a lot with an existing or proposed single-family residence or multifamily dwelling units that conform to the requirements of this section shall be considered as ministerial permits without discretionary review or a hearing, and the City shall approve or deny such applications within 60 calendar days after receiving the completed application. If the permit application to create an ADU, and/or JADU, is submitted with a permit application to create a new single-family dwelling on the lot, the city may delay acting on the permit application for the ADU until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the ADU shall still be considered as a ministerial permit without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.
- 3. Coastal Development Permits. ADUs and JADUs that do not qualify as exempt development pursuant to Section 17.52.100 of this Title shall require a Coastal Development Permit in accordance with Section 17.52.090 of this Title. The Planning Commission shall be the appropriate authority to approve or deny coastal development permit applications required by this Chapter. No building permit application shall be deemed complete until a Coastal Development Permit subject to the provisions of this section has been approved and any applicable appeal period has concluded.
 - a. Note: Most ADUs and JADUs constitute development if they include, for example, new construction of a detached ADU, new construction of an attached ADU, or conversion of an existing, uninhabitable, attached or detached space to a ADU or JADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the “placement or erection of solid material,” and the conversion of existing, uninhabitable space would generally constitute a “change in the density or intensity of use.” Therefore, these activities would generally constitute development in

the coastal zone that requires a CDP.

4. Type 3 Review Request. The applicant may submit an application for a Type 3 review of the ADU that deviates from the standards of this chapter but is otherwise within the discretionary and/or permitting purview of the city.

C. Coastal Development Permits.

1. All ADUs and JADUs classified as Type 1 units shall be exempt from Coastal Development permit requirements.
2. Coastal Commission Appeals Jurisdiction – Beach and Riparian (BR) Overlay.

a. Type 2 Applications.

- i. For Type 2 Coastal Development Permits that are appealable to the California Coastal Commission, as described is the Carmel Municipal Code, the authority to review an application for a Coastal Development Permit is designated to the Director of Community Planning and Building or the Director's designee, and the procedures provided in CMC Section 17.52.120, Public Hearing Waivers for Appealable Coastal Permits, except as modified below.

- a. Type 2 ADU applications shall be considered “minor development”, a “qualifying development”, and/or a “track one (administrative permit)” for the purpose of implementing CMC Section 17.52.120.

- b. Prior to approval of the Coastal Development Permit, the Director shall find that the Coastal Development Permit meets the findings identified in CMC Section 17.64.010.B, Coastal Development Permits. The Director shall not approve an application for a Coastal Development permit that is not found to be consistent with CMC Section 17.64.010.B.

- c. At least 10 days before the City’s decision on the application, the City shall provide notice, by first-class mail to all owners of real property, as identified on the last equalized property tax assessment roll within 300 feet. The notice shall include:

- i. The date the application will be acted upon by the City’s review authority;
- ii. The City’s general procedure concerning the submission of public comments either in writing or orally before the decision is rendered;
- iii. A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held before the decision is rendered;

- iv. A statement that the development is within the coastal zone;
- v. The date of filing of the application and the name of the applicant;
- vi. The number assigned to the application;
- vii. A description of the development and its location;
- viii. The procedure for which an appeal may be filed with the California Coastal Commission.

d. The Director's decision shall be final and any appeals of the decisions of the Director or the Director's designee shall be appealed directly to the California Coastal Commission.

b. Type 3 Applications.

- i. For Type 3 Coastal Development Permits that are appealable to the California Coastal Commission, the appeal procedures established CMC Chapter 17.54 shall apply.

3. Non-Appealable Coastal Development Permits.

a. Type 2 Applications

For Type 2 Applications that are not appealable to the California Coastal Commission and a Coastal Development Permit is required, the authority to review an application for a Coastal Development Permit is designated to the Director of Community Planning and Building or the Director's designee , and the noticing procedures provided in CMC Section 17.52.130.A, Public Notice of Nonappealable Development, shall be adhered to in the review of non-appealable CDPs associated with Type 2 applications

The decision of the Director, or the Director's designee shall not be appealable and shall constitute the final action of the City.

b. Type 3 Applications.

- i. For Type 3 Coastal Development Permits that are not appealable to the California Coastal Commission, the appeal procedures established CMC Chapter 17.54 shall apply.

4. Final City Action on Coastal Development Permits.

- a. The procedures outlined in CMC Section 17.52.140 shall apply to all projects requiring a Coastal Development Permit.

D. Denials.

If the city denies an application for an ADU or JADU pursuant to Section 17.ADU.100.B.1, the Director, within the time period described in Section 17.ADU.100.B.1, shall return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

DRAFT



**COMMUNITY PLANNING & BUILDING DEPARTMENT
CITY OF CARMEL-BY-THE-SEA**

TO: Planning Commission and Interested Parties

FROM: Evan Kort, Senior Planner

DATE: Current edits as of October 14, 2025

SUBJECT: *TITLE – TBD* (ADU Ordinance; Coastal Act Compliance)

Abbreviations:

ADU	Accessory Dwelling Unit	IP	Implementation Plan
CCC	California Coastal Commission	JADU	Junior Accessory Dwelling Unit
CDP	Coastal Development Permit	LCP	Local Coastal Program
ESHA	Environmentally Sensitive Habitat Area	LUP	Land Use Plan
HCD	Housing and Community Development		

Readers Note: In March 2024, the California Legislature enacted Senate Bill 477 as an urgency measure. SB 477 was signed by Governor Newsom on March 26, 2024, and it took effect immediately. The bill's purpose is to make state law governing Accessory Dwelling Units ("ADUs") and Junior Accessory Dwelling Units ("JADUs") easier to read and navigate. It does so by relocating numerous Government Code sections into a new chapter, and, within that chapter, key regulations are divided into smaller sections by topic area. SB 477's changes to state law are only organizational; none are substantive.

The regulations governing the creation of ADUs (formerly located in Government Code sections 65852.2 and 65852.23, and 65852.22 for JADUs) are now located in [Government Code sections 66310–66342](#). Some cited or quoted texts may refer to government code sections which pre-date SB 477 and are listed within section Government Code section 65852.2, for example. While the reference code section may be changed, the text language generally remains unaltered and applicable.

SUMMARY:

The City of Carmel-by-the-Sea draft ADU ordinance has been informally reviewed by the Department of Housing and Community Development (HCD) staff. During a February 2024 meeting between the city and HCD staff, it was request by HCD staff that the city provide evidence and clarification of how deviations from the ADU statute are necessary to comply with the Coastal Act and the city's Local Coastal Program (LCP) in accordance with [Government Code Section 66329](#). This document provides responses to the question regarding how the city's draft ordinance is required for consistency with the city's Certified Local Coastal Program, and by extension, the California Coastal Act.

In addition, this document provides responses to the comments provided by HCD staff during their informal review of the city's draft ADU ordinance following the city's 1st ADU workshop with the Planning Commission held in November 2023.

DRAFT – edits as of October 14, 2025

BACKGROUND:

Beginning in 2019, California state legislature began passing a number of laws (Senate and Assembly Bills) reducing barriers to entry and streamlining the process for the establishment of Accessory Dwelling Units (ADUs) for all cities and counties in California. According to the [Department of Housing and Community Development HCD July 2022 ADU Handbook](#) (“ADU Handbook”), there have been eight bills in respect to ADUs passed, primarily codified in Government Code sections 65852.2. Additional legislation has been passed since the publication of the ADU Handbook and in March 2024, SB 477 was passed reorganizing the structure of the ADU statutes into Chapter 13 of the California Government Code (Sections 66310-66342; “ADU Statute” or “Statute”).

The City Council of the City of Carmel-by-the-Sea has directed the Community Planning and Building Department to prepare an ordinance for adoption addressing the state’s requirements for ADUs. The Department began its efforts in early 2023, discussed policy matters with the city’s legal council, met with California Coastal Commission (CCC) staff, and then took a draft version of an ordinance to a public workshop with the city’s Planning Commission in November 2023.

Following the Planning Commission workshop, staff met with members of the Department of Housing and Community Development (HCD) to receive preliminary feedback on the draft ordinance and to receive direction. HCD staff provided preliminary feedback on the draft ordinance (comments and responses outlined within this document).

With the preliminary comments, the city updated and revised the first draft of the ordinance and provide additional clarifications regarding how the proposed ordinance aligns with the city’s Local Coastal Program and the Coastal Act, as required in Government Code Section 66329 as the first draft of the ordinance proposed several deviations from the state statute which were required for consistency with the Coastal Act.

On October 22, 2024, city staff met with Coastal Commission staff and shared a working version of the draft ordinance including the supplemental findings to support where the LCP does not align with the state statute. While Commission staff has not yet provided any written comments on the proposed ordinance, Commission staff verbally were in support of the staff position based on the discussion at the October 22nd meeting.

On November 5, 2024, city staff met with HCD staff to share updates made to the ordinance since their review of the first draft, provide updates regarding the meeting with the Coastal Commission, and receive general direction regarding the next steps. HCD staff was provided with a copy of a draft ordinance and has offered to provide comments on the revised ordinance.

A notable item regarding the status of the draft ordinance which did come up in discussion with HCD staff was that the position of HCD is that the proposed ordinance should wholly comply with the state statute with an “allowance” (of sort) for deviations for where necessary for compliance with the Coastal Act in accordance with Government Code Section 66329. While staff had initially proposed an ordinance that would be specific to Carmel-by-the-Sea as the entirety of the city is subject to a Local Coastal Program, HCD’s preference would be for the language in the ordinance to still comply with the state statute even where there would be direct conflicts with what could be approved through a Coastal Development Permit (CDP) due to conflicts with the city’s LCP.

While revisions could be made to satisfy the direction of HCD, staff's concern is this could lead to confusion over competing provisions within the body of the ordinance since many of the statutes would simply not apply (refer to analysis below) which may lead to confusion during implementation. As this is a recent development, staff has not yet been able to incorporate this feedback into the draft ordinance.

THE ISSUE:

The city's adopted Land Use Plan (LUP), was found to meet the requirements of the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act. In short, the LUP, in addition to the city's implementation plan, are consistent with the California Coastal Act as adopted by the California Coastal Commission on October 14, 2004, and subsequent amendments. However, strict adherence to the state statute relative to ADUs directly conflicts with many of the objectives, goals, and policies of the city's LCP, as adopted today, and by in turn, the California Coastal Act.

CARMEL-BY-THE-SEA LOCAL COASTAL PROGRAM:

The City of Carmel-by-the-Sea is located entirely within the boundary of the coastal zone and has a [Certified Local Coastal Program \(LCP\)](#). The California Coastal Commission gave final certification of the LCP on October 14, 2004 which includes a policy document, Land Use Plan (LUP), and a set of ordinances and resolutions to implement those policies, Coastal Implementation Plan (CIP).¹



Figure 1. Coastal Zone Boundary illustrated by **BLUE** line. Entirety of city limits located west of coastal zone boundary and Highway 1 -de facto coastal zone boundary. Source: California Coastal Commission.

¹ Carmel General Plan – Introduction – Page I-7

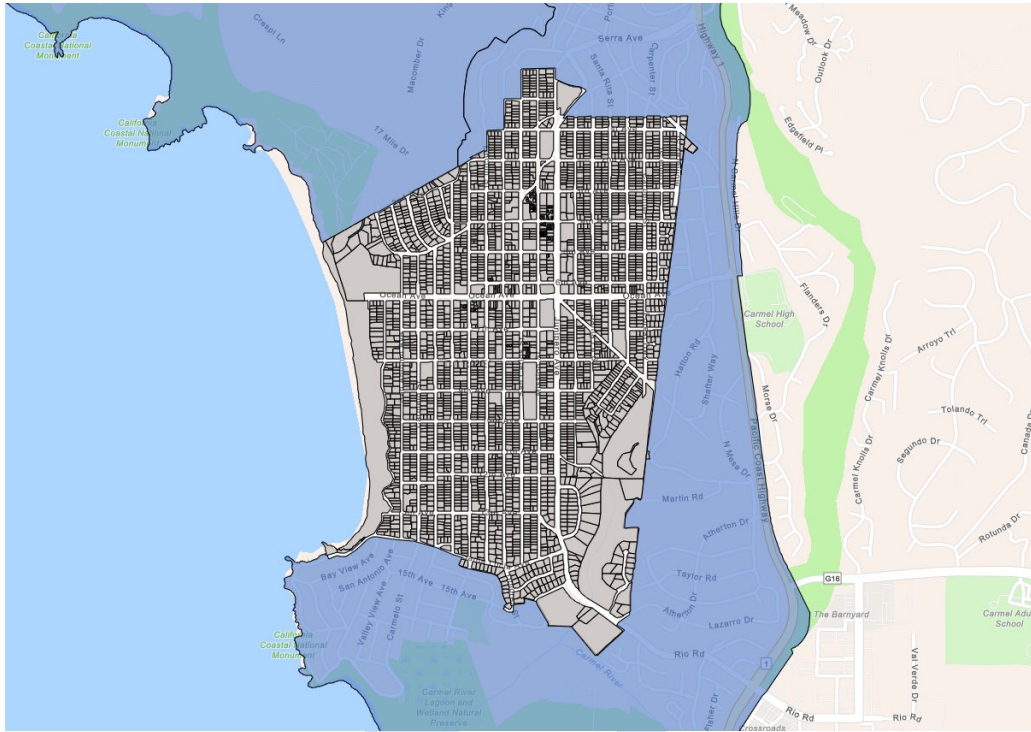


Figure 2. Coastal Zone Boundary (transparent **BLUE** area) bounding the entirety of the city limits of the City of Carmel-by-the-Sea (**GRAY** parcel map showing extent of city limits).

As described in the city's General Plan, "*Carmel's General Plan has been combined with its Local Coastal Land Use Plan to ensure coordination of these two policy documents. The Coastal Land Use Plan sets forth goals, objectives, and policies that govern the use of land and water in Carmel-by-the-Sea consistent with Chapter 3 of the California Coastal Act of 1976 (as amended through January 2003). Chapter 3 of the California Coastal Act contains coastal resources planning and management policies that address public access, recreation, marine environment, land resources, development, and industrial development.*"²

The City's Land Use Plan describes the associated chapters in the following manner:

Community Character and Development. This Chapter of the General Plan covers topics required in the Land Use Element. This heading also includes policies for topics in sections [30244](#) and [30250 through 30254](#) of the Coastal Act.

Circulation. This Chapter or Element of the General Plan is one of the seven elements required by California Statutes. Several of the policies in this element also implement provisions of the Coastal Act.

Coastal Access and Recreation. This Chapter includes policies for topics covered in sections 30210 through 30224 ([30210-30214](#); [30220-30224](#)) of the Coastal Act.

² Carmel General Plan – Introduction – Page I-1

Coastal Resource Management. This Chapter of the General Plan includes policies for topics in sections 30230 through 30243 ([30230-30236](#); [30240-30243](#)) and [30251](#) of the Coastal Act.

Appendices to the Land Use Plan include the:

- Forest Management Plan;
- Mission Trail Nature Preserve Master Plan;
- Final Results of the Environmentally Sensitive Habitat Area Study Conducted for the City of Carmel-by-the-Sea (ESHA Study);
- Historic Context Statement, Carmel-by-the-Sea.

The Coastal Implementation Plan consists of the Carmel Zoning Code (Title 17 of the Municipal Code) including;

- Appendix A: Shoreline Management Plan;
- Appendix B: Significant Tree Evaluation Worksheet;
- Appendix C: Residential Design Guidelines – Concept Review;
- Appendix D: Residential Design Guidelines – Final Details Review;
- Appendix E: Commercial Design Guidelines – Commercial Design Guidelines;
- Appendix F: Public Way Design Guidelines;
- Appendix G: Archaeological Resource Management Reports (ARMR): Recommended Contents and Format;
- Appendix H: Storm Water Standards and Programs;
- Appendix I: Secretary of Interior's Standards for Rehabilitation of Historic Buildings;³
- Appendix J: Del Mar Master Plan.

In a February 13, 2003 staff report prepared by Coastal Commission Staff for the March 6, 2003 hearing for the adoption of the city's Land Use Plan, Commission staff argues the following (emphasis added in **Bold**, underline, and **highlight**):

It is often stated that Carmel, along with such other distinct communities as the town of Mendocino, is one of the special communities for which Coastal Act section 30253(5) was written⁴. Carmel is a very popular visitor destination, known as much for the style, scale, and rich history of its residential, commercial, and civic architecture, as for its renowned shopping area, forest canopy and white sand beach. As a 'primarily residential community, the established pattern of development in Carmel plays a key role in defining the special character of the City, as various architectural styles reflect the historical influences that have existed over time. Carmel is distinctly recognized for its small well-crafted cottages, informal streetscapes, architectural diversity, and forested landscape. These modest residences are associated with the era in which Carmel was known for its resident artists and writers, and functioned as a retreat for university professors and other notables. Homes were nestled into the native Monterey pine/Coast live oak forest, on a grid of streets that yielded to trees more than to engineering expediency.

³ Resolution 2004-30

⁴ Additional reference provided in letter prepared by Coastal Commission Central Coast Deputy Director titled: [Coastal Development Review and LCP Completion/Protection of Community Character in the City of Carmel-by-the-Sea](#); November 2, 2000.

Section 20253(e): *New development shall where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Further described in the same February 13, 2003 staff report, the Commission staff re-states and recommends the following modification to the land use plan to ultimately achieve consistency with the Coastal Act (emphasis added in **Bold**):

Carmel is one of those special communities for which Coastal Act section 30253 was written. *Though much is made of the eclectic cottages in the forest and brilliant white sand beach, world-renowned shopping, proximity to Pebble Beach and gateway to Big Sur, the LUP does not designate Carmel a "special community" worthy of protection. Modification 27 acknowledges the significance of City's unique character and designates Carmel a special community and highly scenic area for the purposes of Coastal Act Sections 30251, 30253, and 30610 along with corresponding regulation 13250. This designation provides the basis for requiring coastal development permit review of development proposals that potentially impact historic and/or character resources.*

The Coastal Commission recommended the inclusion of modification #27 which was incorporated into the Land Use Plan, as described below:

27. Add the following text to page 5, end of the second paragraph: The incorporated City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics.

As adopted, the City's Land Use Plan includes the following language:

Carmel-by-the-Sea is internationally recognized as a unique small coastal community with a residential village character. Early development was predominantly residential. Commercial development began as small-scale village enterprises designed to serve the needs of the local residents. Through the years, these commercial uses have expanded to cater largely to visitors. (LUP)

Located adjacent to Carmel Bay with gently rising slopes, the City has conscientiously retained its residential village character in a forest setting, dominated by Monterey Pines. The special character of this residential coastal community is considered a unique asset of statewide and national significance that should be maintained as a resource both for local residents and for visitors. The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics. (LUP)

Section 30251:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253.

New development shall do all of the following:

- a. Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- b. Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- c. Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.
- d. Minimize energy consumption and vehicle miles traveled.
- e. Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

The California Coastal Commission has also cited Carmel-by-the-Sea's LCP as an example of an LCP which contains specific policies design to protect Special Communities and Community Character. As described in the [July 13, 2013 LCP Update Guide](#):

One example of policies designed to protect special communities and community character is the City of Carmel-by-the-Sea LCP, which includes a comprehensive set of policies and ordinances designed to protect the special historic character of Carmel.

The Carmel example includes a number of policies designed to maintain city's community character, which is exhibited through many of its smaller cottages and its informal streetscape, and which is a draw for many visitors. Carmel's policies require, among other directives:

- *Assuring priority land uses, including a mix of commercial uses, that are compatible with the needs of visitors and the character of the area as a residential village;*
- *Limiting the location of new commercial activity to present commercial and multi-family districts and protecting the established patterns of land use throughout the city while providing for a high-quality pedestrian oriented environment;*

- *Adopting standards for development that retain the scale and character of the City including requiring design review for new homes and additions;*
- *Requiring that new development on each site is compatible and sensitive to the surrounding natural features and built environment of the site and of surrounding areas and contributes to neighborhood character;*
- *Allowing land uses that are compatible with local resources and the natural resources and scenic quality of the area, including preserving significant areas of vegetation and open space.*

Maintaining Community Character

Recognizing that some amount of development or re-development will be necessary, and to ensure community character is maintained, the Land Use Plan contains policies that respond to the Coastal Act through a combined approach of conservation and preservation. Conservation allows change and new construction as long as it is consistent with established character. This approach is appropriate for new buildings, remodels, and additions, involving non-historic resources. The City implements conservation of its character through its Design Guidelines for the residential district, the commercial district and for the public way. The overall character of the City can be conserved through appropriate policies related to the urbanized forest, roadway design and building design. Preservation requires that historic resources be protected and rehabilitated without changes that would damage their integrity.⁵

When the Land Use Plan was being considered, Coastal Commission staff found that the City's Residential Design Guidelines (completed prior to adoption of the LCP) more specifically address the treatment of size, massing, coverage, open space, streetscapes, and the forest landscape than the proposed policies contained within the proposed Land Use Plan. The Commission stated that within the Residential Design Guidelines, primary consideration is given to compatibility with the design traditions of Carmel, maintaining the urban forest character, promoting buildings that are in scale with that context, while encouraging diversity in design. As such, the Commission recommended that the LUP be modified to incorporate various Design Guidelines into the LUP. In practice, application of these modified policies still leave considerable discretion to the City decision-makers on matters of design style and elements, and ensures that new development fits within the City's existing community character.⁶

RELATION TO ADUs AND THE CARMEL LCP:

While the ADU statute requires local jurisdictions provide for streamlined and ministerial approvals of ADUs including the granting of certain waivers and exceptions for their development, the city's LCP conflicts with the requirements and current mandates of the state law both in terms of process and required development standards.

Notably, the statute currently states (Government Code Section 66329):

Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

⁵ Carmel General Plan – Land Use & Community Character – Page 1-22

⁶ Coastal Commission Staff Report; City of Carmel-by-the-Sea: Land Use Plan Re-submittal (3rd); November 21, 2003

Additionally, HCD's July 2022 ADU handbook states: "ADU laws apply to jurisdictions in the California Coastal Zone, but do not necessarily alter or lessen the effect or application of Coastal Act resource protection policies. (Gov. Code, § 65852.22, subd. (I))⁵. Coastal localities should seek to harmonize the goals of protecting coastal resources and addressing housing needs of Californians. For example, where appropriate, localities should amend Local Coastal Programs for California Coastal Commission review to comply with the California Coastal Act and new ADU laws."

On January 21, 2022, the California Coastal Commission (CCC) published a memo titled, [Updates Regarding the Implementation of New ADU Laws](#). The memo discusses the authority that the Coastal Act grants the Commission and local governments over housing in the coastal zone, new legislation regarding ADUs, how local governments can streamline ADU applications under the Coastal Act, and some key issues that should be considered when LCP amendments for ADU provisions are undertaken.

Notable points addressed within the memo include (emphasis added in **bold**):

1. *Outside of an LCP context, existing or new J/ADU provisions that do not meet the requirements of the new legislation are null and void and will be substituted with the provisions of Section 65852.2(a) until the local government comes into compliance with new provisions. (Gov. Code § 65852.2(a)(4).) **However, existing [ADU and/or JADU] provisions contained in certified LCPs are not superseded by Government Code Section 65852.2 and continue to apply to Coastal Development Permit (CDP) applications for J/ADUs until the LCP is modified.** Coastal jurisdictions without any J/ADU provisions or with existing J/ADU provisions that were adopted prior to January 1, 2020 are encouraged to update their LCPs to comply with the State's new laws. Such new or updated LCP provisions need to ensure that new J/ADUs will protect coastal resources in the manner required by the Coastal Act and LCP...;*
2. *In non-coastal zone areas, local governments are required to provide rapid, ministerial approval or disapproval of applications for permits to create [ADUs and/or JADUs], regardless of whether the local government has adopted updated [ADU and/or JADU] provisions. (Gov. Code § 65852.2(a)(3).) **In the coastal zone, CDPs are still necessary in most cases to comply with LCP requirements (see below); however, a local public hearing is not required, and local governments are encouraged to streamline [ADU and/or JADU] processes as much as feasible;***
3. *Other recent legislative changes clarify that local [ADU and/or JADU] provisions may not require a minimum lot size; owner occupancy of an ADU (though if there is an ADU and a JADU, one of them must be owner-occupied); fire sprinklers if such sprinklers are not required in the primary dwelling; a maximum square footage of less than 850 square feet for an ADU (or 1,000 square feet if the ADU contains more than one bedroom); and in some cases, off-street parking. Section 65852.2(a) lists additional mandates for local governments that choose to adopt a [ADU and/or JADU] ordinance, all of which set the "maximum standards that local agencies shall use to evaluate a proposed [ADU] on a lot that includes a proposed or existing single-family dwelling." (Gov. Code § 65852.2(a)(6).) **As indicated above, in specific cases coastal resource considerations may negate some such requirements, but only when tied to a coastal resource impact that would not be allowed under the Coastal Act and/or the LCP.** In recent LCP amendments, these types of considerations have most often arisen in terms of the off-street parking provisions;*

4. *While most [ADU and/or JADU] projects take place within established residential neighborhoods where potential coastal resource impacts are fairly limited, there can be cases where such projects may affect significant coastal resources, such as sensitive habitats and shorelines and beaches. **As a general rule, LCPs include many provisions protecting such resources, and it is important that proposed [ADU and/or JADU] provisions are not structured to undo any such LCP protections that already apply. [ADUs and/or JADUs] may need to be reviewed for specific siting and design standards, particularly in visually sensitive areas** (such as the immediate shoreline, between the first public road and the sea, **near LCP-designated scenic areas**, etc.). Similarly, where sensitive habitat may be present, [ADUs and/or JADUs] must be reviewed for impacts to such habitat, including with respect to fuel modification for defensible space. Additionally, local governments should include provisions for [ADUs and/or JADUs] constructed in areas vulnerable to sea level rise and other coastal hazards which ensure not only that these structures will meet all LCP requirements for new development to be safe from such hazards, but that also addresses the need for future sea level rise adaptations (including future accommodation or removal, risk disclosure conditions on the [ADU and/or JADU], and any other risk-related issues dealt with in the LCP).*

The memo published by the CCC also encourages local governments to update their LCPs with ADU and/or JADU provisions in a manner that harmonizes the State's housing laws with the Coastal Act. Doing so would protect the State's coastal resources while also reducing barriers to constructing ADU and/or JADU and helping to promote more affordable coastal housing.

THE GOAL:

The goal of the city's proposed ADU ordinance is to harmonize the provisions of the ADU statute with the goals and policies of the Coastal Act and the city's LCP. Development of ADUs have the support of the community, the City Council, the Planning Commission, and city staff. In fact, this ordinance will play a key role in meeting the city's RHNA allocation for the city's Housing Element which was adopted by the City Council on April 8, 2024⁷. The goal of this ordinance is not to limit, preclude, or exclude ADUs in any manner, but to ensure consistency with the city's LCP and harmonize with the state statute with the Coastal Act as to the greatest extent feasible as appropriate for the city.

Under the proposed ordinance, ADUs be permitted on all building sites were single family and multi-family residences are permitted, as required by the state statute, with no change or limitation to the potential number of total number of potential housing units that could be allowed. The modification proposed to ensure consistency with the Coastal Act would come in the form of the standard of review (ranging from ministerial to discretionary based on a specific criteria) to ensure there are no impacts to coastal resources.

The goal of the proposed ordinance is to provide a clear framework as well as procedural expectations for the project from start to finish for all projects in the city as all projects would all be subject to the same regulatory framework of the Local Coastal Program.

Because of this, some clear deviations from the ADU statute are proposed, but they are proposed in good faith and are tied to a coastal resource impact that would not be allowed under the Coastal Act and/or the LCP which are authorized in accordance with Government Code Section 66329.

⁷ Adopted 6th Cycle Housing Element (2023-2031); City of Carmel; April 8, 2024; Program 1.3.C

ANALYSIS/RESPONSE TO COMMENTS:

The section below addresses the informal comments provided by the Department of Housing and Community Development as a courtesy review of the draft ordinance. The city's response to their comment has been provided immediately following including any supplemental information or analysis, if necessary. A redlined version of the draft ordinance has been included as Attachment A.

1. 17.ADU.030 (A)(1) – *Number of ADUs, Single Family* – Allows 1 ADU and 1 JADU per single-family lot, conflicting with Government Code Section 65852.2 (e) which allows 1 converted ADU, 1 detached ADU and 1 JADU within the primary dwelling.
 - a. Revised accordingly. Updated to allow 1 conversion, 1 detached, and 1 JADU.
2. 17.ADU.030 (B)(1), (B)(2) – *Floor Area, Single Family* – The floor area is limited to be inclusive of the zoning's lot coverage and floor area allowances, meaning that if a lot has already developed a single-family home that meets/exceed buildable area allowed on the lot, an ADU cannot be constructed. This directly conflicts with Government Code Section 65852.2 (c)(2)(C), and (e)(1)(B) which allows a detached 800SF ADU. This regulation could have the effect of banning ADU new construction on most single-family parcels with existing single-family dwellings in Carmel.
 - a. This is required for LCP consistency. See Land Use Plan Policy see P1-48.

Background

While multiple land use policies make reference to minimizing building mass, limiting floor area and coverage, creating setbacks and preserving open space, **P1-49** expressly limits above-grade floor area on 4,000 square foot lots to a maximum of 1,800 square feet:

***PI-49:** Limit above-grade floor area on 4,000 square foot lots to a maximum of 1,800 square feet. Projects with less above-grade square footage shall be preferred. Structural coverage shall not exceed 45% of the site. Total site coverage (structural and other impermeable coverage) on 4,000 square foot lots shall not exceed 55% of the site. Locate open space so that it visually links with adjacent properties. (LUP)*

In a staff report dated November 21, 2002 for the consideration of the adoption of the city's LCP. The staff report stated, in part (emphasis added in **BOLD**):

*...in an earlier section of this report, it was demonstrated that the current zoning standards for floor area ratio and site coverage were contributing to the erosion of community character through the approval of larger homes relative to the established size and scale of Carmel's small cottages. The current standards allow 1,800 square feet of floor area on single 4,000 square foot lots. This is roughly 50% greater in size than the average existing cottage and has resulted in **adverse effects on site coverage**,*

setbacks, massing, and the urban forest. Site coverage for a single-story residence including patios, driveways, and walks could exceed 60% of a 4,000 square foot lot. At this size, homes no longer are subordinate to the natural environment but rather they become the dominant feature of the site, often overriding other features such as trees and topography.

To remedy this, **the Commission is recommending that the above grade floor area ratio be reduced to 1,600 square feet on 4,000 square foot lots and structural coverage limited to 40% of the site.** Other site coverage (i.e., non-structural) would remain at 10% for a 4,000 square foot lot. This allows for a reasonable amount of re-development without significant adverse impacts. The proposed above-grade FAR is roughly one third greater than the average established size of existing cottages and represents about an 11% reduction in the current floor area standard. Limiting above-grade floor area will increase the amount of open space on these small lots by 200 square feet, providing extra room for trees and other vegetation while avoiding the extra mass associated with the larger home. There will be fewer impacts to the streetscape and less pressure on adjacent small cottages to re-develop. New homes could, of course, be greater than 1,600 square feet with the inclusion of some basement floor area, though this would be allowed only if the proposed design met all the other criteria identified in the LUP (e.g., preservation of trees, etc). There is also a precedent for limiting floor area to 1,600 square feet. Categorical Exclusion Order E-77-13 under which the City currently operates, excludes from the permit requirements of the Coastal Act construction of residential homes in Carmel 1,600 square feet or less. The Commission found at the time of the adoption of the order that development of single family residents 1,600 square feet or less would not result in any significant adverse impacts. Overall, **to achieve consistency with section 30253 [of the Coastal Act], the Commission recommends the following modification to the City's submitted LUP document:** Modification 7 Limit above grade floor area on single lots (i.e., 4,000 square feet) to a maximum of 1,600 square feet. Projects with less above grade square footage shall be preferred. Structural coverage shall not exceed 40% of the site. Total site coverage (structural and other impervious coverage) on 4,000 square foot lots shall not exceed 50% of the site. Locate open space so that it visually links with adjacent properties. Thus, with the above required modifications, the Commission finds that the

LUP Community Character policies are consistent with section 30253 of the Coastal Act.

The city ultimately did not agree with the Coastal Commission staff recommendation, pushed back on the limitation of 1,600 square feet for above ground improvements, and pursued the commission to accept an allowance for a residence of at least 1,800 on a 4,000 square foot site. In a February 13, 2003 staff report prepared by Coastal Commission staff for consideration of the adoption of the city's LCP (the following hearing), Coastal Commission staff continued to recommend denial of the Land Use Plan.⁸ Ultimately, the Coastal Commission sided with the city and approved the Land Use Plan, as presently adopted, finding the associated policies consistent with section 30253 of the Coastal Act. Despite the Coastal Commission pursuing a reduction in allowable floor area citing concerns surrounding section 30253, the city was successful in pursuing additional floor area over the Commission's original recommendation.

This concern was first addressed in the November 21, 2002 Coastal Commission Staff Report (prior hearing) where commission staff explained that:

*Since mid-1997, the City has continued to experience unprecedented development activity during one of the most prolific economic expansions in modern times. [Coastal Commission] staff evaluated building permits issued by the City during one 18 month period at the height of the boom (i.e., 9/2000 - 2/2002) and discovered that more than 80 substantial alterations and remodel permits were issued; 55 of those involved development in excess of \$50,000. Though not technically considered demolitions (according to the City's current definition), these types of construction activities have significantly altered the character of existing structures and neighborhoods, but have been **excluded from the coastal development permit review process...***

This information shows that a significant number of smaller cottages have been demolished or altered or remodeled in a relatively short period of time. Furthermore, the replacement homes and substantial remodels are resulting in larger floor area, mass, and site coverage. The streetscapes and spatial relationships are changing, the forest prominence as a defining character element is declining, open space is disappearing, and more traditional architectural styles are being supplanted by modern eclecticism. There are also as yet unmeasured impacts on

⁸ Coastal Commission Staff Report; City of Carmel-by-the-Sea: Land Use Plan Re-submittal (3rd); February 13, 2003

the watershed functions of the forest including absorption and conveyance of storm water and filtration of pollutants. Considering the trend of demolition, substantial alteration, and remodel over the past 10 years, it is becoming evident that this development activity is having a significant cumulative adverse impact on the unique character of Carmel and the LUP, as submitted, does not adequately address this trend. As such, it is inconsistent with section 30253 of the Coastal Act.⁹

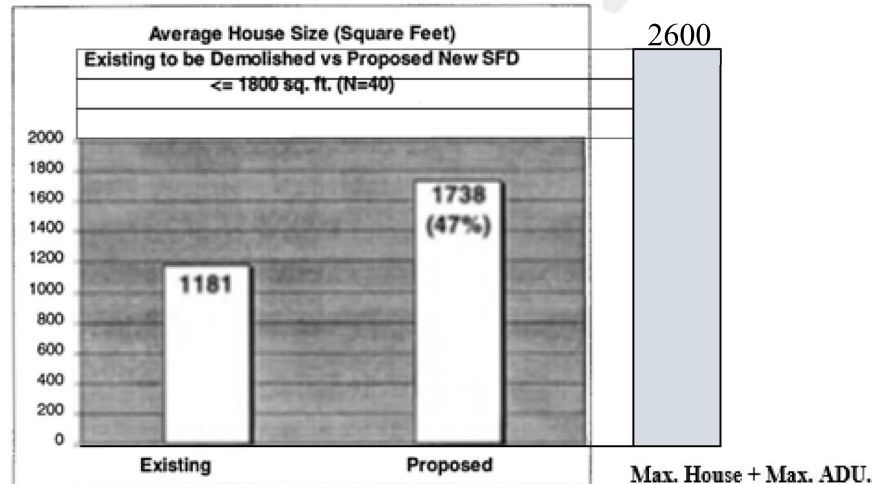


Figure 3. “Carmel, Changes in House Size.” Original figure from November 21, 2002 Coastal Commission staff report. Modified to include 800 square foot ADU in addition to 1,800 square foot primary dwelling (note: 1,800 sf is the max. base floor area allowed on a 4,000 square foot lot -typical lot size).

Should ADUs be permitted by-right to be developed 800 square feet beyond the maximum floor area limit, developed sites could have 44.4% more mass on the site as a result of the proposed development (2,600 square feet vs. 1,800 square feet). This new development pattern is inconsistent with what the Coastal Commission had originally recommended to achieve consistency with section 30253 of the Coastal Act, as well as the finding that development larger than 1,800 square feet were no longer are subordinate to the natural environment, detrimental to community character including forest resources and, and would result in unmeasured impacts on watershed functions.

In line with the discussion above, the allowable floor area of the site, and what may be allowed for an ADU, is also tied to the a number of programs and policies incorporated into the Land Use Plan for compliance with the Coastal Act, specifically section 30253, as it relates to the natural environment, tree protection measures, and preservation of open space resources.

⁹ Coastal Commission Staff Report; City of Carmel-by-the-Sea: Land Use Plan Re-submittal (3rd); November 21, 2002

As discussed in a November 21, 2002 staff report prepared by Coastal Commission staff for the consideration of the adoption of the city's Land Use Plan finds that *"Policies addressing the treatment of size, mass, coverage, open space, streetscapes and the forest landscape are critical to maintaining and preserving community character in Carmel."* Furthermore, the same report finds that amendment's to the city's land use and landscape policies were required for consistency with Coastal Act Section 30251. Such recommended modifications in the subject staff report included:

- *Prohibit the removal of significant trees (i.e., greater than 12" dbh) unless it would prevent a reasonable economic use of the site or pose a threat to health and safety. Locate buildings and other site structures to avoid removal and pruning and otherwise minimize damage to existing significant trees. Avoid impacts to trees by avoiding/minimizing impacts to the root protection zone (i.e, within the drip-line). Establish continuity of landscape elements throughout each neighborhood. Replace trees removed for construction with several saplings. Require that they be nurtured until well established.*
- *All demolitions, remodels, and substantial alterations shall be consistent with the following findings:*
 - ...
 - *The development does not require removal of any significant trees (> 12" dbh) unless necessary to provide a viable economic use or protect public health and safety. All development will be setback a minimum of 6 feet from significant trees.*

Substantially similar policies were adopted in the city's final Land Use Plan (refer to Policies P1-44 and P1-45) with the major difference being the determination for how trees are determined to be significant (rating/evaluation by the city forester versus the initial proposal of being based on trunk diameter).

While there is minimal discussion in the associated Coastal Commission staff reports, the adopted Land Use Plan maintains number of other policies that speak to preservation of open space and tree protection in line with the community character discussion in the associated Coastal Commission staff reports as part of the discussion as part of consistency with Coastal Act section 30253. Adopted policies Land Use Plan include:

P1-38: *Each site shall contribute to neighborhood character including the type of forest resources present, the character of the street, the response to local topography and the treatment of open space resources such as setbacks and landscaping. It is*

intended by this policy that diversity in architecture be encouraged while preserving the broader elements of community design that characterize the streetscape within each neighborhood. (LUP)

P1-39: *Site improvements shall be compatible with, and sensitive to, the natural features and built environment of the site and of the surrounding area. Design solutions should relate to and take advantage of site topography, vegetation and slope. Designs shall recognize the limitations of the land and work with these limitations rather than ignoring them or trying to override them. (LUP)*

P1-40: *Residential designs shall maintain Carmel's enduring principles of modesty and simplicity and preserve the City's tradition of simple homes set amidst a forest landscape. Buildings shall not present excess visual mass or bulk to public view or to adjoining properties. Buildings shall relate to a human scale in their forms, elements and in the detailing of doors, windows, roofs, and walkways. Oversized design elements make structures appear dominating and monumental. This out-of-scale character represents a poor fit to the human form, vitiates the more intimate, rural charm and village character of Carmel-by-the-Sea and should be avoided. (LUP)*

P1-41: *The design of structures shall be coordinated with open space to enhance the park-like environment of the City. Open space should be distributed around buildings to provide visual relief from structural bulk and a distinct separation from buildings on adjacent sites. Designs shall coordinate structural elements with landscaping to achieve a pleasing overall site design. (LUP)*

The Coastal Resource Management Element also notes the following similar policies in respect to preservation of open space and protection of the natural resources as a result of development:

P5-59 *Avoid encroachment within the root protection zone of significant trees. Removal of significant live Monterey pine trees to facilitate residential development is prohibited unless necessary to provide a viable economic use or protect public health and safety. (LUP)*

P5-64 *New development shall be sited and designed to avoid or minimize significant adverse effects to the forest. Avoid projects*

that significantly increase building footprint to the detriment of trees. No grading, compaction of soils, construction of building walls or placement of impermeable surfaces within six feet of trees classified as significant shall be permitted. (LUP)

P5-70 *Require a documented site assessment, or meeting between a planner, City Forester, and the property owner/developer, on each proposed construction site to discuss tree preservation and planting. Establish tree protection zones and suitable locations for development through this process. This shall be done before plans have been drawn. (LUP)*

P5-71 *Evaluate, protect and preserve all trees (and their root zones) on sites prior to, during, and after construction. Ensure that all building sites abide by appropriate tree protection and preservation standards and guidelines provided in the Forest Management Plan. (LUP)*

As previously discussed, Carmel's LCP includes a number of policies designed to maintain city's community character. These policies are directly tied to Coastal Act Section 30253 and include directives to preserve significant areas of vegetation and open space, require that new development on each site is compatible and sensitive to the surrounding natural features and built environment of the site and of surrounding areas and contributes to neighborhood character, and maintaining standards for development that retain the scale and character of the city.

Additionally, floor area is intrinsically tied to building coverage. While the city generally does not use a separate development standard for floor area and building coverage, they are closely related (the city uses floor area for counting improvements within the enclosing walls, and site coverage for improvements outside the area that counts as site coverage):

A February 13, 2003 Coastal Commission staff report explains that (emphasis added in **BOLD**):

The Commission recognizes that new development in Carmel-by-the-Sea has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources. Coastal Act Sections 30230 and 30231 listed above

require that coastal water quality be protected through policies that manage these types of new development impacts.

In particular, new development often results in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on project sites. As discussed in the community character finding, redevelopment activity in Carmel has the potential to lead to increased impermeable surface, particularly on the smaller, 4000 square foot lots in the City where typically small structures are located. In the last several years the Commission has reviewed permits for residential demolition and rebuilds that have generally resulted in significant increased impervious coverage. For example, in the last year the average proposed increase in site coverage on 4000 square foot lots was approximately 375 square feet or 9%. This includes, though, a wide range of proposed changes in coverage, including some projects that reduced coverage slightly to projects that increased coverage by over 70% or greater than 1,000 square feet.

The reduction in permeable surface therefore leads to an increase in the volume and velocity of storm water runoff that can be expected to leave the site. The cumulative effect of increased impervious surface is that the peak stream discharge is increased and the peak occurs much sooner after precipitation events. Changes in the stream flow result in modification to stream morphology. Additionally, runoff from impervious surfaces results in increased erosion, sedimentation, and non-point source pollution...

The report acknowledges that site coverage is but one component of the land use-water quality nexus, but it does underscore the importance of minimizing impervious site coverage overall.

Minimizing impervious site coverage (which includes building coverage) is necessary as Carmel-by-the-Sea lies within and at the bottom of the Carmel River watershed. Runoff from the City flows into Carmel Bay, which is designated both as an Area of Special Biological Significance (ASBS) in the California Ocean Plan, and as a California Fish and Game Ecological Reserve. It is also part of the Monterey Bay National Marine Sanctuary. An ASBS is an area designated by the State Water Resources Control Board that requires special protection of species or biological communities that could be impacted by water quality degradation. As discussed in the Public Access finding, Carmel Beach and the shoreline also is a highly popular public recreation area. Maintaining and restoring water quality

throughout the Carmel River watershed, and in this case, Carmel's urban landscape, is necessary to protect these sensitive coastal resources.¹⁰

At the time of adoption of the LCP, the Commission recognized that new development in Carmel-by-the-Sea has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources. Coastal Act Sections 30230 and 30231 require that coastal water quality be protected through policies that manage these types of new development impacts.¹¹

In particular, new development often results in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on project sites. As discussed in the community character finding, redevelopment activity in Carmel has the potential to lead to increased impermeable surface, particularly on the smaller, 4000 square foot lots in the City where typically small structures are located.¹²

The reduction in permeable surface therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. The cumulative effect of increased impervious surface is that the peak stream discharge is increased and the peak occurs much sooner after precipitation events. Changes in the stream flow result in modification to stream morphology. Additionally, runoff from impervious surfaces results in increased erosion and sedimentation. In a setting such as Carmel, where informal street design (no curbs and gutters generally; unpaved road edges and narrow pavement sections, etc.) tend to encourage storm water percolation in portions of the right of way that remain landscaped or pervious Increased site runoff could potentially have a significant impact on existing runoff patterns if not properly managed, ultimately resulting in increased erosion and a future need to manage runoff through subsurface engineered drainage structures. Thus, although Carmel's street design character already minimizes impervious coverage it is desirable to mitigate additional hardscape from private development to protect water quality, and maintaining the informal streetscape of Carmel.¹³

Maintaining permeable surfaces and managing runoff onsite also helps to limit the impacts of pollutant runoff. Pollutants commonly found in runoff associated with new development include:

- petroleum hydrocarbons such as oil and grease from vehicles;
- heavy metals;
- synthetic organic chemicals including paint and household cleaners;

¹⁰ Coastal Commission Staff Report; City of Carmel-by-the-Sea: Land Use Plan Re-submittal (3rd); February 13, 2003

¹¹ *ibid*

¹² *ibid*

¹³ *ibid*

- soap and dirt from washing vehicles;
- dirt and vegetation from yard maintenance;
- litter and organic matter;
- fertilizers, herbicides, and pesticides from household gardening or more intensive agricultural land use;
- nutrients from wastewater discharge, animal waste and crop residue; and
- bacteria and pathogens from wastewater discharge and animal waste.

The discharge of these pollutants to coastal waters can cause cumulative impacts such as:

- eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size;
- excess nutrients causing algae blooms and sedimentation increasing turbidity, which both reduce the penetration of sunlight needed by aquatic vegetation that provide food and cover for aquatic species;
- disruptions to the reproductive cycle of aquatic species;
- acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and
- human diseases such as hepatitis and dysentery.¹⁴

These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes, reduce optimum populations of marine organisms and have adverse impacts on human health. They are particularly important to manage in the vicinity of significant marine resources such as Carmel Bay – an Area of Special Biological Significance and Ecological Reserve.

As discussed above, limiting impervious surfaces is critical to maintaining and protecting water quality in Carmel. As discussed in the Community Character finding, it is also critical to protecting the urban forest and informal streetscape of Carmel – both essential pieces of Carmel’s unique community character.

The City’s water quality protection policies (Local Coastal Plan Objectives 05-45 and 05-45) as well as the city’s water quality protection ordinance (CMC 17.43) that requires that new development minimize development footprints and directly connected impervious surfaces, as well as the increase in new impervious surfaces to implement Coastal Act sections 30230 – 30232 and 30240. Given the importance of this issue to the protection of water quality, it is necessary that the LUP have a specific impervious surface limitation for properties in the residential district. Without such specific limitation, it will be more likely that the small lots of Carmel will redevelop over time with significantly more impervious surfaces,

¹⁴ *ibid*

and that the cumulative impacts of these surfaces on water quality will increase.¹⁵

Proposed Amendments

Based on the findings outlined above, the initial draft ordinance prepared by staff sought to achieve strict compliance with the Goals, Objectives, and Policies outlined in the adopted Land Use Plan. A workshop was held with the city's Planning Commission on November 15, 2023 and (in respect to this specific matter), the general sentiment was that the floor area limitation was too restrictive the Commission was supportive of exploring alternative options to allow for additional floor area beyond what may be permitted under the current LCP. Staff has proposed a pathway which would allow for up to an additional 800 square feet of floor area, consistent with the state statute, which combines existing review processes with the city's LCP to ensure a balance of development opportunity with coastal resource protection. This process is discussed in the "ADU Type Summary" beginning on Page 44. These "ADU Types" are referenced throughout and are referred to "Type 1," "Type 2," and "Type 3" units.

3. 17.ADU.030 (B)(3) – *Lot Allowances, Single Family* – Existing ADUs are counted towards the lot coverage and floor area allowances. This, again, conflicts with the unit allowances of Government Code Section 65852.2 (e), for which lot coverage and Floor Area Allowances do not apply.
 - a. The statute states: *"a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following... One detached, new construction, accessory dwelling unit... [with] A total floor area limitation of not more than 800 square feet."*

The statute states the local agency shall permit an 800 sf ADU regardless of the existing floor area. If the city has permitted the ADU, has the city not fulfilled its permitting obligation?

This provision only applies to when an **existing ADU has been already been established on a site**, as specified in the proposed ordinance, and does not preclude the establishment of an ADU based on the floor area, or site coverage allowances based on the primary dwelling when an ADU does not exist (or has not been proposed).

The referenced subdivision does not state a jurisdiction cannot include a prohibition or limitation on floor area or coverage -only that up to an 800 square foot ADU shall be allowed under this subdivision.

Staff met with Coastal Commission staff on October 22, 2024 and discussed this matter; Commission staff agreed with staff's position.

Refer to section #2, above, for associated LCP findings.

¹⁵ *ibid*

4. 17.ADU.030 (B)(4) – *ADU inferiority, Single Family* – The floor area of an ADU is limited to be less than that of the primary dwelling. No such requirement exists for detached units within Government Code section 65852.2, and such a requirement directly conflicts with Government Code Section 65852.2 (c)(2)(C), which allows for an 800 square foot ADU regardless of such conditions and (e)(1)(B) which allows a detached 800SF ADU.
 - a. Revised. Clarified in CMC 17.ADU.030.B.3.
5. 17.ADU.030 (C)(1) – *Attached Unit Size, Single Family* – An attached ADU is limited to 50% of the primary dwelling, such a requirement directly conflicts with Government Code Section 65852.2 (c)(2)(C), which allows for an 800 square foot ADU regardless of such conditions.
 - a. Revised. Clarified in CMC 17.ADU.030.C.1.b
6. 17.ADU.030 (D)(1) – *Height, Single Family* – Height requirements same as local zoning. Without having checked other parts of the municipal code not stated within this ordinance, height maximums may not fall below those listed within Government Code section 65852.2, subdivision (d)(1). Top plate requirements are local design standards which may not be applied to ADUS created under Government Code section 65852.2, subdivision (e).
 - a. See Height Limits below (Table 17.10-C):
 - b. Plate Heights are a (objective) height standard as described in the city’s LCP and may be imposed pursuant to section 66314; also see Table 17.10-C from the implementation plan.

Section 66314: “A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following: (b) (1) 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. These standards shall not include requirements on minimum lot size.”

As previously described: *The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics. (LUP)*

Coastal Act Section 30251:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and

designed ..., to be visually compatible with the character of surrounding areas,

....

Coastal Act Section 30253.

New development shall do all of the following:

- e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Not enforcing an (objective) plate height requirement for an ADU is not visually compatible with the character of the surrounding area (neighborhood/site) as provided in Section 30251 and 30253 of the Coastal Act as this is not permitted as part of the LCP and there are specific prohibitions against this. An objective plate height requirement does not preclude the establishment of an ADU in any manner. Rather, it ensures visual compatibility with the primary dwelling pursuant to Coastal Act Sections 30251 and 30253.

Refer to discussion in section 10.

B. Height Limits. The following height standards apply to the R-1 district. Where conflicts between two or more of these standards occur, the more restrictive limits shall apply.

Table 17.10-C: Maximum Height Standards			
	R-1 District	R-1-BR District	R-1-PO District
Number of Stories Allowed	2	2	1*
Roof Height of First Story (in feet)	18	18	18
Plate Height of First Story (in feet)	12	12	12
Roof Height of Second Story (in feet)	24	18	24*
Plate Height of Second Story (in feet)	18	18	18*

* See CMC 17.20.100, Required Planning Commission Review, and CMC 17.20.110, Review Criteria.

7. 17.ADU.030 (E)(1) – *Setbacks, Single Family* – The front setbacks are a requirement for ADUs, directly in conflict with the provisions for an 800 square foot unit as described in Government Code section 65852.2, subdivisions (c)(2)(c), and (e). Side and rear setbacks may not be greater than 4 feet for any new construction ADUs pursuant to Government Code section 65852.2, subdivision (a)(1)(D)(vii).
- Minimum side and rear setbacks are three (3) feet –less restrictive than as required in subdivision (a)(1)(D)(vii); conversions are addressed in section 17.ADU.030(2) and complies with the subject requirements –no setback required except for 150 sf ingress/egress addition which shall comply with 3’ setback. Additionally, the composite setback requirement is proposed to be waived for detached ADUs (refer to Table 17.10-A).
 - Additional setbacks may be required pursuant to LCP/CDP requirements specially called out within the overlay chapters on a site/project specific basis. Examples include (but are not limited to):
 - in the Beach/Riparian Overlay:

- A setback of at least 15 feet shall be maintained along any property line facing the beach (CMC 17.20.160.B.4).
- New structures shall be set back a sufficient distance from any bluff top to be safe from bluff erosion for a minimum of 100 years as determined by a site-specific geology report, prepared in compliance with CMC 17.20.170(B), Geology Report; provided, that in no case shall the minimum setback be less than 25 feet (CMC 17.20.160.B.9.a).

ii. in the Environmentally Sensitive Habitat Overlay:

- New development shall be setback from the upland edge of riparian vegetation a minimum of 100 feet, except as provided in subsection (F)(2)(b) of this section, and as follows (CMC 17.20.220.F.2).
- Coastal development permit approval may include the reduction of a minimum riparian setback if the City first makes the findings required by subsection (F)(2)(a) of this section, and all the following findings; provided, that in no case shall structures be allowed closer than 30 feet from a stream bank (CMC 17.20.220.F.2.b).

Requirements clarified in new Coastal Resource Protection Section - 17.ADU.080

- c. Front setback required for LCP consistency and is an objective design standard. Allowing up to an 800 square foot structure in the front setback is not visually compatible with the character of the surrounding area (neighborhood) as provided in Section 30251 and 30253 of the Coastal Act as this is not permitted as part of the LCP and there are specific prohibitions against this.

As previously described: The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics. (LUP)

Section 30251:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed ..., to be visually compatible with the character of surrounding areas,

Section 30253.

New development shall do all of the following:

DRAFT – edits as of October 14, 2025

- f) *Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*
- i. Applicable Land use plan policies include (**emphasis added in bold**):
- **P1-38:** Each site shall contribute to neighborhood character including the type of forest resources present, **the character of the street**, the response to local topography and **the treatment of open space resources such as setbacks and landscaping**. It is intended by this policy that diversity in architecture be encouraged while **preserving the broader elements of community design that characterize the streetscape within each neighborhood**. (LUP)
 - **P1-40:** Residential designs shall maintain Carmel's enduring principles of modesty and simplicity and preserve the City's tradition of simple homes set amidst a forest landscape. **Buildings shall not present excess visual mass or bulk to public view** or to adjoining properties. Buildings shall relate to a human scale in their forms, elements and in the detailing of doors, windows, roofs, and walkways. **Oversized design elements make structures appear dominating and monumental. This out-of-scale character represents a poor fit to the human form, vitiates the more intimate, rural charm and village character of Carmel-by-the-Sea and should be avoided.** (LUP)

A. Setbacks. Minimum building setbacks shall conform to the standards in Table 17.10-A: Setback Standards for R-1 District.

Table 17.10-A: Setback Standards for R-1 District					
Lot Type	Front Setback (in feet)	Rear Setback* (in feet)	Composite** (both sides)	Side Setbacks	
				Minimum Setbacks (in feet)	
Interior Site	15	15	25% of site width	3	N/A
Corner Site	15	15	25% of site width	3	5
Resubdivided Corner Site	10	15	25% of site width	3	9
Double-Frontage Site	15	N/A	25% of site width	3	5 (if applicable)

* The rear setback is three feet for those portions of structures less than 15 feet in height.

** See CMC 17.10.030(A)(1) and 17.06.020, Rules of Measurement.

8. 17.ADU.030 (F) – *Parking, Single Family* – Parking required within Coastal Access Parking Areas. This is in conflict with Government Code section 65852.2, subdivisions (a)(1)(D)(x), and (d)(1), which detail how any off-street parking that may be required may be situated, as well as several exemptions to parking standards regardless of zoning or districts.
- a. The Coastal Commission has opined in a 2021 memo titled [Updates Regarding the Implementation of New ADU Laws](#) that key issues that the Commission has dealt with recently include public coastal access parking requirements and protection of sensitive habitats and visual qualities.

The memo cites the requirements of Government Code Section 65852.2. In response to the requirements of pertaining to parking outlined in Government Code Section 65852.2, the memo states:

The potential outcome is that private residential J/ADU parking needs can be shifted onto adjacent public streets. At the same time, the Coastal Act contains objectives and policies designed to protect and provide for maximum coastal access opportunities, which includes maintaining sufficient public coastal parking, including as implemented through LCP off-street parking provisions. The addition of J/ADUs may interfere with coastal public street parking availability if, for example, a garage is converted to a J/ADU and parking is not replaced onsite, in addition to the J/ADU parking demand itself. The Commission has often found that when private residential parking needs are not accommodated onsite, it can lead to increased use of on-street parking to address such needs, thereby reducing the availability of on-street parking to the general public. This may adversely affect public coastal access if it occurs in high visitor-serving areas and/or areas with significant public recreational access opportunities, and where on-street parking is heavily used. The result will be that the general public could be displaced from on-street parking by J/ADU parking needs, which may violate the Coastal Act's requirements to protect, provide, and maximize public coastal access and recreational opportunities. In many impacted coastal neighborhoods, development patterns over the years have not adequately accounted for off-street parking needs, and adding J/ADU parking to the mix will only exacerbate such public parking difficulties. Additionally, because general on-street parking is typically free or lower cost compared to other public parking facilities, J/ADU construction may also interfere with maintaining lower cost coastal access for all.

The city's Circulation Element, part of the Land Use Plan, include specific Objectives, and Policies to address the concerns noted above.

O2-5 Require that all new developments provide sufficient off-street parking facilities. (LUP)

P2-26 Adopt and enforce off-street parking and loading regulations that incorporate realistic requirements based on broad categories of land use as well as the amount of floor space and location of the property. Apply these requirements for all new development and for changes in use that will result in increased parking demand. (LUP)

In addition to the Coastal Access and Recreation Element which also speaks directly the issue of coastal parking. The Coastal Access and Recreation Element states (emphasis added in **Bold**):

*Implementation of Coastal Act public access requirements focuses on two types of access: vertical and lateral. Vertical access provides routes from the “nearest public roadway to the shoreline.” Lateral access is along the shoreline, typically immediately adjacent to a sandy beach or rocky inter-tidal zone, at the top of a bluff or otherwise above the high tide line, where pedestrians may walk along the coast without being affected by waves or any safety hazards presented by bluff edges. **Parking facilities near the beach also is a local access issue. (LUP)***

And states further that:

Parking demand exceeds supply especially on busy weekends days and during the summer season. During these times, competition for parking at the Ocean Avenue/Del Mar Avenue beach lot and the public parking spaces along Scenic Road reaches a peak and spills over into the on-street parking in adjacent residential neighborhoods. Demand for public parking and access to the beach typically wanes in the late afternoon. The City controls beach parking through design, dispersal and by regulating parking time limits. In public workshops the congestion at the Del Mar parking lot was identified as a problem that should be addressed. Policies in this land use plan support development of a master plan that includes a redesign of this area to improve circulation, reduce congestion, protect sensitive resources and enhance visual character. (LUP)

The Coastal Commission has found that:

In order to avoid conflicts regarding parking requirements for J/ADUs as they may impact public access, local governments are encouraged to work with Commission staff to identify or map specific neighborhoods and locations where there is high visitor demand for public on-street parking needed for coastal access and to specify parking requirements for each such area that harmonizes Government Code requirements with the Coastal Act (and any applicable LCP policies). These maps can denote areas that supply important coastal public parking and access opportunities, and require that J/ADU development in these areas ensure that private residential parking needs are accommodated off-street. Importantly, such upfront LCP mapping and provisions allow the local government to address impacts to public access and parking supply without the need for a protracted, or even necessarily a discretionary, decision. The Commission has previously found that local governments may include specific off-street parking requirements for J/ADUs constructed in these locations and may also require maintenance of all off-street parking for the primary residence (see examples below). However, harmonizing the distinct priorities between the Coastal Act’s protection of public coastal access and the J/ADU provisions on parking requirements will require a case-by-case consideration of the specific circumstances of each jurisdiction.

The City has proposed a “Coastal Access Parking Area” identify or map specific neighborhoods and locations where there is high visitor demand for public on-street parking needed for coastal access, as identified in the city’s LCP.

The Coastal Access Parking Area is proposed to include all properties located within the Beach and Riparian (BR) Overlay District located west of the centerline of Carmelo Street and west of the centerline North San Antonio Street, as well as all properties with street frontages located on San Antonio Avenue or North San Antonio Avenue, proposed in the city’s draft ordinance. Staff also recommends the inclusion of properties commercially zoned as these zone districts have the highest visitor demand for public on-street parking, in addition to the area immediately adjacent to the beach.

Requirements clarified in new Coastal Resource Protection Section - 17.ADU.080.C.2

9. 17.ADU.040 (F)(3) – *Non-conforming status, Single Family* – Loss of parking results in a nonconforming status. This is in conflict with Government Code section 65852.2, subdivisions (a)(1)(C) and (a)(11), which state that an ADU does not exceed the allowable density for the lot, and is consistent with the zoning designation on the lot.
 - a. CMC 17.ADU.040(F)(3) is not related to allowable density of the primary dwelling nor ADU. The purpose of this section is to notify owners/applicants of other provisions/requirements of the municipal code/LCP that may occur if parking is not replaced (see section b, below).
 - b. If parking is voluntarily eliminated, which may occur, the site becomes non-conforming because the primary dwelling no longer has conforming parking. A Coastal Development Permit or other permit approval cannot be issued for the primary dwelling if there is no on-site parking (see CMC 17.10.030.F.2.d). This provision is intended to notify the applicant of potential risk of not replacing parking in accordance with CMC 17.ADU.070.2.c.
 - i. Refer to Section #8 above for how parking for a primary dwelling is required for LCP consistency.
 - c. **CMC 17.10.030.F.2.d:** *Developed building sites not meeting parking standards shall be considered nonconforming. No building permits authorizing any demolition, floor area addition or increase in exterior volume exceeding two percent of allowed volume shall be issued unless one or more of the following applies:*
 - i. *The proposed plans for construction will achieve compliance with all parking standards; or*
 - ii. *The building permit is for repairs only, or is for alterations involving no expansion of floor area and the valuation of the work would not exceed 25 percent of current construction costs for replacement of the building.*

Note: This provision does not apply to the establishment of an ADU; an ADU could be added to a site if parking requirements are not met. However, if parking is eliminated from a site, future development of the site may be limited.

10. 17.ADU.030 (G) – *Design Standards, Single Family* – Design standards apply to all ADUs. However, this is in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards.

- a. Local design standards are required for LCP consistency.

As previously described: *The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics. (LUP)*

Section 30251:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed ..., **to be visually compatible with the character of surrounding areas,***

Section 30253.

New development shall do all of the following:

- g) **Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.***

Not enforcing an design standards for an ADU is not visually compatible with the character of the surrounding area (neighborhood/site) as provided in Section 30251 and 30253 of the Coastal Act as this is not permitted as part of the LCP and there are specific prohibitions against this. The use of Design Standards does not preclude the establishment of an ADU in any manner. Rather, it ensures visual compatibility with the primary dwelling pursuant to Coastal Act Sections 30251 and 30253.

While current design guidelines are discretionary, the proposed standards for all Type 1 and Type 2 ADUs are proposed to be objective. Type 3 ADUs would use discretionary Residential Design Guidelines.

- i. P1-46: Require design review of proposed developments in the residential districts that are near designated parkland or that involve sever slopes, large

structures or unusual design to protect the character of individual neighborhoods and avoid inharmonious or out-of-scale development. (LUP)

- ii. P1-47: Apply the City's Residential Design Guidelines that explain the qualities that are characteristic of the community to assist in the preparation and approval of plans for residential development through the design review process. Include provisions for scale, mass, bulk, height, setbacks, open space, landscaping, exterior materials, lighting and community character. Establish procedures for using the guidelines that will allow flexibility and creativity in architectural expression yet maintain continuity in the design character of the residential district. (LUP)
- iii. P1-51: Consider the effect of proposed residential construction on the privacy, solar access and private views of neighbors when evaluating design review applications. Avoid designs that are insensitive to the designs of neighboring buildings. Attempt to achieve an equitable balance of these design amenities among all properties affected by design review decisions. (LUP)
- iv. Also see CMC 17.10.010, Purpose and Design Objectives.
 - *The purpose of this chapter is to establish standards and requirements for physical development in the R-1 single-family residential district. To implement the General Plan and the Coastal Land Use Plan, the following design objectives for the R-1 district are established....*

11. 17.ADU.040 (A) – JADUs, Multifamily – Allows for JADUs in Multifamily. Pursuant to Government Code section 65852.22, subdivision (a), JADUs may only be permitted within single-family residential zones.

- a. This has been clarified. See CMC 17.ADU.040.A.3.

12. 17.ADU.040 (A)(1)(b), (A)(2) – Number, Location, Multifamily – Requires ADUs to be detached from all accessory structures. This is in conflict with Government Code section 65852.2, subdivision (e)(1)(D), which explicitly states that the two, detached ADUs are only detached from the multifamily dwelling, not any other structure. This section also does not allow for attached ADUs pursuant to Government Code section 65852.2, subdivision (a)(1)(D)(iii). Finally, the entirety of section 17.ADU.040 excludes proposed multifamily developments from creating ADUs. ADUs are allowed concurrently with proposed multifamily dwellings, pursuant to Government Code section 65852.2, subdivisions (a)(1)(D)(iii) and (e)(1)(D).

- i. *Requires ADUs to be detached from all accessory structures. This is in conflict with Government Code section 65852.2, subdivision (e)(1)(D), which explicitly states that the two, detached ADUs are only detached from the multifamily dwelling, not any other structure.*
 - Clarified in CMC 17.ADU.A.1.b.ii

- ii. *This section also does not allow for attached ADUs pursuant to Government Code section 65852.2, subdivision (a)(1)(D)(iii).*
 - There appears to be no provision that states attached units are required on multi-family sites¹⁶. “Multifamily dwellings” are identified distinctly different from “primary dwelling” and “single family dwellings” throughout the state statute.
 - iii. *Finally, the entirety of section 17.ADU.040 excludes proposed multifamily developments from creating ADUs. ADUs are allowed concurrently with proposed multifamily dwellings, pursuant to Government Code section 65852.2, subdivisions (a)(1)(D)(iii) and (e)(1)(D).*
 - CMC 17.ADU.040.A.1.b allows existing and proposed.
13. 17.ADU.040 (B) – *Floor Area, Multifamily* – Floor Area is restricted to the limits of other sections of the code, in conflict with Government Code section 65852.2, subdivisions (a)(7), (c)(2)(C) and (e)(1)(D). Subdivision (a)(7) states that no other ordinance, policy or regulation shall be the basis of the delay or denial of an ADU permit, while (c)(2)(C) and (e)(1)(D) detail ADUs which may not be restricted by lot coverage, density, or floor area allowances.
- a. Refer to discussion in section #2. Revised for consistency with response to Comment #2.
14. 17.ADU.040 (D) – *Height, Multifamily* – Height is restricted to 18ft, in contrast to (c)(2)(D)(iii), which allows for an additional two feet in height to match roof pitch, and (c)(2)(D)(iv) which allows up to 25ft or the limitation on the primary.
- a. No change proposed to draft ordinance. The city does not have a major transit stop or a high-quality transit corridor Section 21155 of the Public Resources Code within one-half mile walking distance.
 - b. Carmel Bus Lines within ½ Miles: Monterey Salinas Transit (MST) Routes 5, 91, 94
 - i. Max Frequency at any time (peak/non-peak): ½ - Hour (5); 2-Hours (91, 94)
15. 17.ADU.040 (F) – *Parking, Multifamily* – Parking requirements are required within Coastal Access Parking Areas. This is in conflict with Government Code section 65852.2, subdivisions (a)(1)(D)(x), and (d)(1), which detail how any off-street parking that may be required may be situated, as well as several exemptions to parking standards regardless of zoning or districts.
- a. Refer to discussion in Section #8. No parking is required in multi-family. Coastal Parking Area is a conditional, if.
16. 17.ADU.040 (F)(3) – *Non-conforming status, Multifamily* – Loss of parking results in a nonconforming status. This is in conflict with Government Code section 65852.2, subdivisions

¹⁶ “Under the California Government Code 65852.2 (e)(1)(D), only detached ADU units are permitted on a duplex lot.” –Coastal Commission Staff Report; Th20a; A-6-DMR-23-0022

(a)(1)(C) and (a)(11), which state that an ADU does not exceed the allowable density for the lot, and is consistent with the zoning designation on the lot.

- a. Refer to discussion in Section #9.

17. 17.ADU.040 (G) – *Design Standards, Multifamily* – Design standards apply to all ADUs. However, this is in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards.

- a. Refer to discussion in Section #10.

- i. O1-10 Apply design regulations for the commercial district that will protect its established character while supporting the land uses contained therein. (LUP)
- ii. P1-63 Protect the special and unique character of Ocean Avenue and the surrounding commercial area. Ensure, through the administration of land use and design regulations, that the architecture, landscape, scale and ambience of this area is maintained. (LUP)
- iii. P1-66 Retain the scale and variety of design established in the retail core when considering changes to buildings that are not historic. Protect, preserve and rehabilitate historic commercial architecture that represents the character, ambience and established design context of the commercial area. (LUP)
- iv. P1-67 Preserve all existing courtyards in the core of the commercial district as a distinctive architectural feature of the City's pedestrian-oriented retail area. Encourage the establishment of new courtyards and intra-block walkways. (LUP)
- v. P1-68 Implement design regulations and design guidelines to ensure that buildings and storefronts in the retail core maintain the design features characteristic of this area including appropriate scale, minimal setbacks, attractive landscaping and consistency in the treatment of windows, awnings, exterior materials and building lines throughout each building. (LUP)

18. 17.ADU.050 (C) – *Shared Facilities, JADUs* – Requires that the sanitation facility be considered in the JADUs square footage, and that it be immediately accessible. This is in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards. It is also inconsistent with Government Code section 65852.22, subdivision (a)(5)(B), which only requires an interior entrance to the main living area.

- a. This is not a design standard. This is ensure the unit is 500 square feet or less and is accessible (i.e. usable) to the JADU pursuant to the requirements of the government code section and the building code.

19. 17.ADU.050 (F) – *Parking, JADUs* – Replacement parking is required when a JADU is converted from a garage, and that parking must comply with the requirements of the underlying zoning district. However, Government Code section 65852.22 states that additional parking shall not be required. No off-street parking requirements are required to be covered.

- a. The replacement parking noted in the proposed ordinance is for the primary dwelling, not for the JADU. There is also no requirement that parking is covered –parking in the R-1 district may be provided by garage, carport, or parking pad.

From [July 2022 HCD ADU Handbook](#) (page 24): *“Please note that JADUs created in the attached garage are not subject to the same parking protections as ADUs and could be required by the local agency to provide replacement parking.”*

20. 17.ADU.060 (A), (B) – *Design Review* – Administrative standards must be included within the ADU ordinance, as no other ordinance, policy or regulation may be used in the evaluation of ADUs per Government Code section 65852.2, subdivision (a)(7). This is also in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards. Additionally, “appearance” and “texture” are subjective terms with no means of uniform verification through an external benchmark, and therefore do not meet the definition of objective standards pursuant to Government Code section 65852.2, subdivision (j)(7).

- a. Staff requires further direction from HCD regarding the above comment. It is unclear why a specific “pointer” within the ordinance to another ordinance/resolution/document is impermissible.
 - i. A finding for CDP approval is that *“That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Carmel-by-the-Sea Local Coastal Program”*. This assumes the project must also comply with provisions of the code outside of the ADU ordinance. See Gov. Code Section 66329.
 - ii. Separate document could include images, colors, figures, etc, that do not fit well within the structure of an ordinance.
- b. Local Design Standards for all ADUs, including subdivision (e) units, is required for LCP consistency – refer to section #10, above.

21. 17.ADU.070 (D) – *Tree Removal* – The ordinance states that no trees shall be removed, except in accordance with another section of the Municipal Code. Government Code section 65852.2, subdivision (a)(7) states that no other ordinance, policy or regulation shall be the basis of the delay or denial of an ADU permit. This is also in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local design standards.

- a. Staff requires further direction regarding the above comment. It is unclear why a “pointer” to another ordinance does not function the same as reusing the text in the subject ordinance.

The city is not enforcing ADUs using another ordinance, policy, or regulation, but rather incorporating that specific language into ordinance by reference.

- b. Tree protection measures are included as part of the City’s LCP and are required for LCP consistency.
 - i. A finding for CDP approval is that *“That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Carmel-by-the-Sea Local Coastal Program”*. This assumes the project must also comply with provisions of the code outside of the ADU ordinance. See Gov. Code Section 66329.

As described in the February 13, 2003 staff report for the adoption of the City’s Land Use Plan:

Carmel is one of those special communities for which Coastal Act section 30253 was written. Though much is made of the eclectic cottages in the forest and brilliant white sand beach, world-renowned shopping, proximity to Pebble Beach and gateway to Big Sur, the LUP does not designate Carmel a "special community" worthy of protection. Modification 27 acknowledges the significance of City's unique character and designates Carmel a special community and highly scenic area for the purposes of Coastal Act Sections 30251, 30253, and 30610 along with corresponding regulation 13250. This designation provides the basis for requiring coastal development permit review of development proposals that potentially impact historic and/or character resources.

*Other than **the need to protect character through implementation of land use and landscape policies**, the scenic views and resources of Carmel's beach, parks, and open space are adequately protected in the LUP...*

Associated LUP Policies associated with tree protection include, but are not limited to:

- ii. P1-42 ...Minimize the extent of excavation and fill on a site to avoid adverse impacts on trees and ensure new development follows the natural contours of the site.
- iii. P1-44: Prohibit the removal of significant trees (as determined by the city forester) unless it would prevent a reasonable economic use of the site or pose a threat to health and safety. Locate buildings and other site structures to avoid

removal and pruning and otherwise minimize damage to existing significant trees. Avoid impacts to trees by avoiding. Minimizing impacts to the root protection zoning identified by the city forester during the preliminary site assessment. Establish continuity of landscape elements throughout each neighborhood. Replace trees removed for construction with appropriate trees of the urbanized forest. Require that they be nurtured until well established.

- iv. All demolitions, rebuilds, remodels, and substantial alterations shall be consistent with the following findings:
 -
 - The Development does not require removal of any significant tree unless necessary to provide a viable economic use of the property or protect public health and safety. All buildings and structures will be setback a minimum of 6 feet from significant trees.
- v. P1-50: Establish landscaping standards to preserve the urban forest of Monterey Pines, Monterey Cypress, Redwoods and Coast Live Oaks, and encourage informal gardens using native vegetation to maintain the natural character of open spaces in the residential areas. (LUP)
- vi. P5-64 New development shall be sited and designed to avoid or minimize significant adverse effects to the forest. Avoid projects that significantly increase building footprint to the detriment of trees. No grading, compaction of soils, construction of building walls or placement of impermeable surfaces within six feet of trees classified as significant shall be permitted. (LUP)
- vii. P5-69 Require ample and appropriate landscaping and tree plantings on all sites. Determine what is appropriate for each site by consulting the recommended tree density as appropriate to each neighborhood. Special emphasis must be paid to construction sites. Required replacement trees shall be of substantial size, caliper and height to produce an immediate visual impact and to reduce the incidence of unauthorized removal. (LUP)
- viii. P5-70 Require a documented site assessment, or meeting between a planner, City Forester, and the property owner/developer, on each proposed construction site to discuss tree preservation and planting. Establish tree protection zones and suitable locations for development through this process. This shall be done before plans have been drawn. (LUP)
- ix. P5-71 Evaluate, protect and preserve all trees (and their root zones) on sites prior to, during, and after construction. Ensure that all building sites abide by appropriate tree protection and preservation standards and guidelines provided in the Forest Management Plan. (LUP)

22. 17.ADU.070 (E)(1)(c) – *Fire Sprinklers* – Requires fire sprinklers for the addition of space for an attached ADU. This requirement is in direct conflict with Government Code section 65852.2, subdivision (a)(1)(D)(xii), which states that the construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

- a. Revised; “including addition to ADU” was not intended to mean the ADU was the additional square footage, rather, there is an addition to the SFR which triggers sprinklers to the SFR and an ADU is also proposed at the same time.

23. 17.ADU.070 (E)(2) – *Constructed Concurrently* – Requires that an ADU shall be considered “concurrent” if the building permit is issued within two years. This requirement is in direct conflict with Government Code section 65852.2, subdivision (a)(3)(A), which details the ministerial processes for the approval or denial of an ADU based upon whether or not there is an existing primary dwelling on the lot. Additionally, Government Code section 65852.2, subdivision (j)(10) defines “proposed dwelling” as “a dwelling that is the subject of a permit application and that meets the requirements for permitting...” regardless of the status of any other structure on the lot, including when, or if, those structures had been permitted.

- a. The definition for “constructed concurrently” is defined solely and expressly for the purpose of the fire sprinkler requirements and is based on a finding made by the Building Official/Fire Code Official for health, safety, and welfare.

- i. *CMC 17.ADU.070.E. For purposes of this subsection (1)(b), the term "constructed concurrently" shall mean construction of a primary dwelling unit that is performed in reliance on a building permit issued within two (2) years of the date of issuance of a building permit for construction of an ADU.*

24. 17.ADU.070 (L) – *Overlay Districts* – Overlays may not be used to restrict ADU construction where residential uses are permitted pursuant to Government Code section 65852.2, subdivision (a)(1)(A). A local agency may only designate areas where ADUs may be constructed based upon the adequacy of water and sewer services, traffic flow, and public safety. Review must remain ministerial and free of discretionary processes. This is also in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local development standards.

- a. The existing overlays are required for LCP consistency. Land Use Plan Policy P1-108, P5-44, P5-45, P5-103.

The overlays identified in the policies above are related to Archeological Resources, Environmentally Sensitive Habitat Areas, and protection, enhancement, and conservation of parks, open spaces, and beach lands. Additional overlays exist within CMC 17.20, however, are only used to identify minimum lot sizes for the purposes of subdivision and would not be applicable to development of an ADU.

Protection of Archeological Resources is required by [Coastal Act Section 30244, Archaeological or Paleontological Resources](#). Accordingly to the Land Use Plan:

Archaeological resources from both the prehistoric period and the early historic period can be found in Carmel. Before establishment of the Carmel Mission and subsequent ranching and settlement by Europeans native populations occupied the coastal area of Monterey. During this pre-history period, the Carmel Area provided food and materials for the Costanoan/Ohlone culture. The establishment of the Carmel Mission and the early years of European settlement marked a new period that also is important to an understanding of the cultural development throughout the Carmel region as well as California...

It should be kept in mind that archaeological resources pertaining to the Native American, Spanish and Mexican eras also could be buried in the previously built out areas of the City. Early buildings tended to have a smaller impact on the landscape than modern buildings. Consequently, there is a potential for archaeological resources to have survived intact under buildings, roads, and other features of the landscape.

General areas of archaeological significance are shown in Figure 1.4. Policies to protect these resources are included in this Element. (LUP)¹⁷

Figure 1.4, referenced above, is commensurate with the adopted Archeological Significance (AS) Overlay District as depicted on the city's zoning map.

As described in a Coastal Commission [staff report dated November 21, 2002](#) for the consideration of the adoption of the city's LCP, the topic of Archeological Resources were described as follows (emphasis added in **Bold**):

This aspect of community character has likewise been adequately addressed in the City's LUP policies. The plan calls for the creation of an archaeological overlay district and standard reporting format for all archaeological documentation (P9-86). All development within the overlay is required to perform a phase 1 study to determine if significant archaeological resources are present (P9-87). If sensitive resources are found on a site, all available measures to avoid development shall be pursued (P9-88). The remaining policies require mitigation for impacts incurred during construction, monitoring, safe retrieval, collection and archiving, or preserving in-situ of all identified archaeological resources. All archaeological resource reports are to be transmitted to the Northwest Information Center as designated by the State Office of Historic

¹⁷ Carmel General Plan – Land Use and Community Character – Pages 1-25

Preservation (P9-89, 90, 91). As submitted, the archaeological resource protection measures and policies in the re-submitted Land Use Plan are consistent with Coastal Act Section 30244 for the protection of archaeological resources.^{18 19}

The city's policies on archeological resources have even been cited by the Coastal Commission as an example of a certified LUP for Planning and Locating New Development and Archaeological/Cultural Resources, as noted in their [July 2013 LCP Update Guide](#)²⁰.

No new overlays are proposed as part of the ADU ordinance.

25. 17.ADU.070 (M) and 17.ADU.090 (G) – *Historic* – Only Historic Resources on the California Register of Historical Resources may have additional, objective standards applied. Local Historic Preservation provisions may not apply to ADU development pursuant to Government Code section 65852.2, subdivision (a)(1)(B)(i). Additionally, no other ordinance, policy or regulation may be used in the evaluation of ADUs per Government Code section 65852.2, subdivision (a)(7).

- a. The ADU statute provide that cities may impose standards on ADUs “that include, but are not limited to” standards to prevent adverse impacts to property listed in the California Register of Historic Places. (Gov. Code 65852.2 subd. (a)(1)(B)(i).)

The proposed requirement to comply with the city's historic preservation ordinance is consistent with the State laws because in order to qualify as a local historic resource, a property must be included in, or eligible to be included in, the California Register of Historic Places (CMC 17.32.040.C; 17.32.060.C.3.b; 17.32.230.N.3). As such, only those properties which are or could be included in the California Register of Historic Places are subject to the City's historic preservation requirements and only those ADUs that impact such properties are subject to the City's historic preservation requirements.

If an ADU application proposes to alter a property on the City's inventory of historic resources, the City may impose standards regulating alteration of historic resources set forth in CMC 17.32.120-170. In keeping with Government Code section 65858.2, the City's accessory dwelling unit ordinance seeks to protect properties eligible for and on the California Register of Historic Places (see 17.32.040.C; 17.32.060.C.3.b; 17.32.230.N.3). Pursuant to the City's historic preservation ordinance, properties on the City's inventory of historic resources shall be subject to the standards related to alteration of a historic resource (See CMC 17.32.120-170.). Pursuant to the City's accessory dwelling unit ordinance, ADUs that propose to alter a property on the City's inventory of historic

¹⁸ Coastal Commission Staff Report; City of Carmel-by-the-Sea: Land Use Plan Re-submittal (3rd); November 21, 2002

¹⁹ Staff Note: The numbering of the polices referenced in the staff report and the adopted LUP differ, but the language of the subject policies remains unchanged.

²⁰ LCP Update Guide; Section 6; Planning and Locating New Development and Archaeological/Cultural Resources; California Coastal Commission; July 31, 2013

resources shall also be subject to the standards for alteration of a historic resource. This provision is consistent with the State ADU.

This is also required for LCP consistency. Land Use Plan Goal G1-4 specifically addresses Historic Preservation as well as Objectives O1-14 to O1-18, in addition to Policies P1-83 to P1-113.²¹

As described in the Land Use Plan, *“Although the Coastal Act does not specifically discuss historic preservation, this topic is related to the preservation of character required by sections 30251 and 30253 of the Act.”*²²

This fact was argued by Coastal Commission staff in a [staff report dated November 21, 2002](#) for the consideration of the adoption of the city’s LCP. The staff report stated, in part (emphasis added in **Bold** and underline):

Carmel is one of those special communities for which Coastal Act section 30253 was written. Though much is made of the eclectic cottages in the forest and brilliant white sand beach, world-renowned shopping, proximity to Pebble Beach and gateway to Big Sur, the LUP does not designate Carmel a "special community" worthy of protection. Modification 27 acknowledges the significance of City's unique character and designates Carmel a special community and highly scenic area for the purposes of Coastal Act Sections 30251, 30253, and 30610 along with corresponding regulation 13250. This designation provides the basis for requiring coastal development permit review of development proposals that potentially impact historic and/or character resources.

A separate discussion of the staff report notes (February 13, 2003):

The Commission recognizes that the loss of the City's historic cottages has the potential to adversely impact community character and thus the recreational opportunities represented by them. Coastal Act section 30253(5) requires that special communities such as Carmel be protected against the erosion of its character through policies that guide development and redevelopment in a manner consistent with the established character of the village.

In particular, demolition and/or substantial alteration of existing historic homes and cottages result in the loss of the unique character, which they individually represent and which cumulatively, form an important part of

²¹ Carmel General Plan – Land Use and Community Character – Pages 1-43 to 1-50

²² Carmel General Plan – Land Use and Community Character – Page 1-21

Carmel's character. Once a house has been modified, its character is forever changed -replaced by something that may or may not be consistent with the established character of the block, neighborhood, or City. As discussed in the Character Resources section above, the volume of requests for demolitions in recent years has increased substantially, leading to concerns that the character of the community may be slipping away.

As briefly summarized above (prior section of referenced staff report), Carmel's resubmitted LUP contains a comprehensive set of historic resource policies design to promote the identification and preservation of historic resources including buildings, structures, objects, sites, districts, and archaeological resources (discussed in section 4 below). The primary objectives of the historic preservation element (policies) are:

- *Identify and preserve historic resources;*
- *Incorporate historic preservation principles into the City's design review process*

Although, the policies in the resubmitted LUP provide an initial framework for establishing a historic preservation program, they do not adequately achieve the objectives identified above consistent with 30253 of the Coastal Act. Modifications necessary to bring the historic resources element into conformity with 30253 are discussed below.²³

The staff report then continues to discuss the proposed modifications to the LUP recommended by Coastal Commission staff.

Additionally, at the February 13, 2003 Coastal Commission hearing, Historic Preservation was continued to be discussed as the matter was not previously resolved at the prior hearing. The February 2003 staff report describes that:

The Land Use Plan has a series of policies designed to protect Carmel-by-the-Sea's historical structures, which are a significant component of the City's overall community character. Generally, these policies define what is historic and limit the amount of alterations that could occur to these structures. However, the Land Use Plan is deficient in describing key components of the identification process and in ensuring that all identified resources are subject to the appropriate regulatory policies, thereby, not assuring that all significant historical structures will be protected.

²³ Coastal Commission Staff Report; City of Carmel-by-the-Sea: Land Use Plan Re-submittal (3rd); November 21, 2002

Therefore, modifications are suggested with regard to the Historical Preservation Board, the Carmel Inventory of Historic Resources, the City's Historic Context Statement, the site inspection process, the California Register of Historic Resources criteria, and the development review process.

The report continues to describe (emphasis added in **BOLD**):

*The Commission recognizes that the loss of the City's historic cottages and houses has the potential to adversely impact community character and thus the recreational opportunities represented by them. **Coastal Act section 30253(5) requires that special communities such as Carmel be protected against the erosion of its character through policies that guide development and redevelopment in a manner consistent with the established character of the village.***

*In particular, demolition and/or substantial alteration of existing historic homes and cottages may result in the loss of the unique character, which they individually represent and which cumulatively, form an important part of Carmel's architectural evolution and character. Once the **character defining features**²⁴ of a house has been modified, its character is forever changed - replaced by something that may not retain substantial architectural integrity. Additionally, the design modification may not be consistent with the established character of the block, neighborhood, or City. As discussed in the Character Resources section above, the volume of requests for demolitions in recent years has increased substantially, leading to concerns that the character of the community may be slipping away.*

As adopted, the LUP and IP (zoning code) provide policy direction and implementation measures to achieve consistency with Public Resources Code sections 30251 and 30253.

The proposed code language related to ADUs would utilize the same policy and implementation measure through the review of the associated Coastal

²⁴ “The Secretary of the Interior's "Standards for Historic Preservation Projects" embody two important goals: 1) the preservation of historic materials and, 2) the preservation of a building's distinguishing character. Every old building is unique, with its own identity and its own distinctive character. Character refers to all those visual aspects and physical features that comprise the appearance of every historic building. Character-defining elements include the overall shape of the building, its materials, craftsmanship, decorative details, interior spaces and features, as well as the various aspects of its site and environment” – Preservation Brief #17; Architectural Character: Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character; Lee H. Nelson, FAIA. U.S. Department of the Interior.

Development Permit prior to, or concurrent with, the approval of the building permit for the establishment of an ADU, except that no public hearing would be held for the application when the scope of work is limited to the establishment of the ADU. The ordinance, as proposed, gives the decision making authority to the Director of Community Planning and Building based on the recommendation of a qualified professional, as required by the policies of the Land Use Plan and Implementation Plan (Type 2 ADU).

26. 17.ADU.070 (O) – *Non-Conforming Site Coverage* – Non-conforming zoning conditions on the site may not be reason for delay or denial of an application for an ADU pursuant to Government Code section 65852.2, subdivisions (d)(2) and (e)(2), Which state that nonconforming zoning conditions may not be a factor in ministerial reviews. Additionally, no other ordinance, policy or regulation may be used in the evaluation of ADUs per Government Code section 65852.2, subdivision (a)(7).

- a. This is required for LCP consistency and only applies to hardscape (ground cover, walkwalks, etc) –not other structural non-conformities on the site (see CMC 17.ADU.070(V)). Site coverage is defined as: *The total ground area of a site occupied by materials or improvements that cover the natural soil but which are outside the perimeter of structures that count as floor area.*

The city does not have a “building coverage” standard for the single-family residential districts (used exclusively in the commercial districts). There is floor area (inside the walls) and site coverage (outside the walls). These are two separate standards and are calculated independent of each other.

LUP Policy **P1-49** states: *Total site coverage (structural and other impermeable coverage) on 4,000 square foot lots shall not exceed 55% of the site.*

One of the ways in which this policy is implemented is in CMC 17.10.030.C.2, which states:

Sites not in compliance with site coverage limits shall not be authorized to increase site coverage. Sites with excess coverage may add floor area consistent with subsection (D)(3) of this section, Exterior Volume, only when:

- a. *The site complies with the R-1 district tree density provisions established in CMC 17.48.080(A) and all existing and new trees have sufficient space to protect the root zones and provide for new growth; and*
- b. *Excess site coverage will be reduced at a rate equal to two times the amount of floor area added to the site, or to an amount that complies with the site coverage limits, whichever is less.*

The goal of the proposed requirement is to align with the requirements of the implementation plan (IP). As described above, a reduction in site coverage at a rate equal to two times the amount of floor area added to the site, or to an amount that complies

with the site coverage limits, whichever is less, would be required if the site does not comply with site coverage limits. Additionally, the tree density requirements, consistent with other provisions of the LCP (Policy P5-55, P5-69) would also need to be met.

Coverage plays an integral to the protection of coastal resources in the city. Because the city, has few formal street improvements or drainage systems, *the “urbanized” forest also serves to convey runoff from the watershed to the beach and Carmel Bay through a variety of natural drainages, swales, and creeks. The forest performs the important functions of absorbing water from the soil, reducing runoff, filtering pollutants, and minimizing erosion. As such, the “urbanized” forest reduces the amount of polluted runoff and in large part, helps the City comply with the National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water permit regulations.*²⁵

The Land Use Plan further described that *as existing homes are rebuilt or enlarged their connection to roads and impact on drainage often changes. Larger homes cover more site area with impermeable surfaces causing more runoff... Urban drainage carries pollutants to Carmel Bay, an Area of Special Biological Significance and part of the Monterey Bay National Marine Sanctuary.*²⁶

The overall and simplified goal is to have as much storm water infiltrate on-site as possible and to re-vitalize the forest. However, if the nonconformities are not corrected at the time of construction, the optimal time to address nonconformities, sites may exist in a state that far exceeds the 55% coverage limit prescribed by the LUP. Addressing a nonconforming condition in accordance with the requirement described above may not in fact bring the site into conformance with the 55% permit limit, however, it does bring the site closer to the prescribed limit than it would be otherwise.

As discussed in section #2, above, *[The Coastal Commission staff report for the adoption of the city LCP] acknowledges that site coverage is but one component of the land use-water quality nexus, but it does underscore the importance of minimizing impervious site coverage overall.* Should these nonconformities not be addressed, the potential impacts will continue to be exacerbated.

27. 17.ADU.070 (P) – *Interior Access* – Interior access is not permitted between a primary unit and an ADU. This is in conflict with Government Code section 65852.2, subdivision (e), which is exempt from local development standards.
 - a. Revised for allowance for “subdivision e” units.
28. 17.ADU.070 (T) – *Converted ADUs* – ADUs must be converted from legally permitted accessory structures. This is in conflict with Government Code section 65852.2, subdivisions (a)(1)(D)(vii), (d)(2), and (e)(1), and (e)(2). State ADU Law only requires that structures converted into ADUs be existing, regardless of whether they are legally permitted or not.

²⁵ Carmel General Plan – Coastal Resource Management – Page 5-6

²⁶ Carmel General Plan – Land Use and Community Character – Page 1-27

- a. No change has been made or is proposed. The city agrees with the position of HCD noted in the correction above. See section 17.ADU.070(V), which states: *The city shall not deny an application for a permit to create an ADU due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the ADU.*

The subject section 17.ADU.070 (T) only applies to the proposed **demolition and reconstruction** of an existing accessory within the exact same form and footprint. No provision exists that states a structure cannot be converted and/or maintained in its existing state.

ADU TYPES SUMMARY

Process	Additional Floor Area Allowance for ADU	CDP Required	Review Process
ADU Statute*	Up to 800 sf	-	Ministerial
LCP**	None	Yes, generally	Discretionary
Hybrid	Up to 800 sf	Varies	Varies

*Refers to ADU statute without respect to Coastal Zone (i.e. most cities not requiring special consideration due to LCP provisions).

** Refer to LCP process for typical development application.

Proposed Hybrid Process:

	Criteria	CDP Required	Review Process	Additional Comments/Notes
Type 1	a. The conversion of an existing, legally established habitable space to a ADU and/or JADU within an existing primary dwelling, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure, and	No	1. Building Permit	Objective Design Guidelines

	b. Not located in the Coastal Access Parking Area, located on the site of a Historic Resource, or located within the Beach and Riparian Overlay west of San Antonio Avenue or west of North Carmelo Avenue			
Type 2	1. Attached and detached ADUs which comply with within floor area limits of the site, and/or 2. Type 1 units located in the Coastal Access Parking Area, located on the site of a Historic Resource, or located within the Beach and Riparian Overlay, and/or 3. Units converted from nonhabitable space completely within the enclosing exterior walls of the structure from which they are converted, and/or 4. Any unit not specifically classified as a Type 3 unit.	Yes	1. Administrative – Staff Level CDP 2. Building Permit	Objective Design Guidelines
Type 3	1. Any ADU which receives a floor bonus/exemption of up to 800 sf above the allowable floor area for the site for the construction of an ADU, and/or	Yes	1. Standard CDP; Staff (Admin) or Commission (Standard) depending on scope. Follows city's standard review process as outlined in current	Residential Design Guidelines

	2. Any new attached or detached ADU located in the Beach and Riparian Overlay District west of San Antonio Avenue or west of North Carmelo Avenue. 3. Any new ADU proposed concurrently, and reliant, on a new Track 2 application for a new dwelling, rebuild, or substantial alteration of a primary dwelling. 4. Any ADU for which the applicant requests deviation from adopted applicable standards		Implementation Plan. 2. Building Permit	
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How are ADUs streamlined under the 3-types of permits?

The 3 types of permits allow for streamlining and incenting of the development of ADUs and JADUs while ensuring impacts to Coastal Resources are not impacted. The three “tracks” of ADU review are tiered by the levels of potential impacts to coastal resources. Type 1 would have the lowest impact and Type 3 would have the greatest likely hood of impacting a resource and warrant a higher level of review.

Type 1 projects would generally involve no changes to the existing structure and therefore would not require a CDP (waiver provision is proposed) and therefore would only require a building permit. A waiver from any type of planning review is proposed provided objective design standards are followed for additions to windows and doors needed to facilitate a new unit -current city practice is to require a discretionary planning application for all exterior changes made to a residence. This proposed amendment would streamline current practice by eliminating a planning entitlement that would generally be required all together and only requiring a building permit. Alterations to the building could be made through the use of objective Design Guidelines in lieu of the existing discretionary Residential Design Guidelines.

While the July 2022 HCD ADU handbook, ADUs created under subdivision (e) of Government Code section 65852.2 shall not be subject to design and development standards except for those that are noted in the subdivision –only height and setbacks are noted. This requirement conflicts with the city’s LCP which requires the application of “the City’s Residential Design Guidelines that explain the qualities that are characteristic of the community to assist in the preparation and approval of plans for residential development through the design review process.

Type 2 projects are most similar to the type of ADUs described in the city's existing ordinance, CMC 17.08.050.G, in that the units much comply with all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of this chapter, including but not limited to height, setback, and floor area ratio. The current ordinance requires that detached units have a height of no more than twelve (12) in height and be no more than 600 square feet, for example, so the proposed ordinance would loosen current ADU regulations (CMC 17.08.050.G) to better align with the underlying zoning and the current provisions in the state statute. Type 2 ADUs would require an administrative CDP reviewed (at the staff level). Type 2 ADUs would also be compliant with the development standards and requirements outlined in the current LCP with the only necessary amendment being the proposed use of objective design guidelines and a waiver of public hearing.

The Type 2 incentives ADU development by allowing for the creation of an ADU within the floor area limits of a property without the need for public hearing as may otherwise be required for a smaller scope of work for an addition to the single family residence. For example: an applicant with an existing 1,500 square foot residence proposing a 150+ square foot addition to their home would be subject to the requirements of a Track 2 Design Study and required to receive approval by the Planning Commission. That same applicant could construct an ADU between 150-300 square feet with only an administrative CDP (any larger would become a Type 3 unit). The goal of the Type 2 unit is to incentivize a streamlined track for smaller ADUs which are consistent with the LCP, the underlying zoning for the site, and established community character. Type 2 ADUs strike a balance between the state statute requirements of the LCP and the Coastal Act.

Type 3 ADUs are ADUs that would conflict with the Goals, Objectives, or Policies of the city's LCP, or where potential impacts to Coastal Resources exist if not properly address. As previously stated, the goal of this ordinance is not to limit, preclude, or exclude ADUs in any manner, but to ensure consistency with the city's LCP. While other cities have precluded ADUs all together areas in area's such as Very High Fire Hazard Severity Zones, and other Coastal Cities have prohibited ADUs in Highly Scenic Areas, for example, this ordinance proposes nothing of the sort. Rather, this ordinance would allow for ADUs on all properties with adequate utility services and relies on the expertise and authority of local decision makers to make findings to support project approval, just as with any other coastal project which may impact a coastal resource.

For example, the County of Mendocino has language within their ADU ordinances which expressly limits (and in some cases precludes) development within Highly Scenic Areas unless processed through a "administrative coastal development permit process"²⁷ which then points to another section of code which describes a subjective criteria to be reviewed through the CDP process. Other coastal cities allude to the requirement for compliance with the Coastal Act and the city's LCP, however, again, Carmel maintains a unique challenge of being entirely within the Coastal Zone and entirely designated a special community and highly scenic area for the purpose of the Coastal Act.

While some coastal cities are partially located within the coastal zone and have the benefit of being able to draft an ordinance that is in full compliance with the state statute and incorporate a provision for not

²⁷ Mendocino County Code Section 20.458.045.C

superseding the provisions of their LCP and the Coastal Act by reference (reference to Government Code Section 66329), Carmel is located entirely within the Coastal Zone and requires an ordinance which applies to all ADUs across the whole city. An ordinance that is fully consistent with the LCP would conflict with the state statute, and an ordinance that is consistent with the statute would conflict with the LCP.

Because of this, this hybrid model of ADU types/tracks has been proposed to ensure a harmonious approach to ADU development to the greatest extent feasible. Type 3, however, does rely on the most substantial deviations from both the current LCP and state statute, however, approval of a Type 3 ADU is supported in findings which ensures its development is consistent with the LCP, the Coastal Act, and the state statute. This approach is necessary consistent with the LCP in accordance with Government Code Section Government Code Section 66329:

Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

The Type 3 Track is supported by Government Code Section 66329, described above, as a Coastal Development Permit for an ADU would be required for the establishment of any unit which constitutes development. However, this specific type of development would be inconsistent under the LCP (as provided in Government Code Section 66329). The Type 3 track allows specific findings to be made by the city's decision makers, consistent with standard city procedures, to review projects on a site specific basis to ensure there are no adverse impacts to the coastal resources described throughout this document.

In practice, a Type 3 ADU could be considered in the following manner. An applicant could propose up to an 800 square foot ADU above the floor area for the site, just as suggested in the state statute, however, this review would be completed through the city's standard Track 1/2 Design Study process depending on the scope of the project (and/or other Type 3 qualifier described above. This example uses additional floor area as an example). The additional 800 square feet above the floor area for the site would only be allocated to the ADU. An ADU is a principally permitted use for all ADU types (including type 3). This scope of work would conflict with Land Use Plan Policy P1-49 which expressly limits floor area on a building site and the policy was required for consistency with Coastal Act Section **30253**. The policy was supported by a finding by the Coastal Commission that larger homes have an adverse effects on drainage, water quality, site coverage, setbacks, massing, and the urban forest and that homes are no longer are subordinate to the natural environment but rather they become the dominant feature of the site, often overriding other features such as trees and topography²⁸.

The purpose of the discretionary review would be to ensure there are no impacts to Coastal Resources, including public and/or private views as a result of substantial additional massing on the building site (LUP

²⁸ Coastal Commission Staff Report; City of Carmel-by-the-Sea: Land Use Plan Re-submittal (3rd); November 21, 2002

P1-40). As part of a Design Study review, the appropriate decision making body is required to make the following findings listed in CMC 17.58.060.B. Findings for Design Review Approval and CMC 17.58.060.C. Additional Findings for Design Study Approval. Compliance with these findings would ensure that development is consistent with the LCP and the Coastal Act provided an exception is included for additional floor area is allowed for Type 3 ADUs.

The Commission has stated in their January 21, 2022 memo that (emphasis added in **Bold**):

*While the Commission does not currently have the explicit authority to provide or protect affordable housing in the coastal zone, the Commission has continued to preserve existing density and affordable housing whenever possible, including by supporting and encouraging the creation of [ADUs and JADUs]. **The creation of new [ADUs and/or JADUs] in existing residential areas is one of many strategies that aims to increase the housing stock, including creating additional housing units of a type and size that can be more affordable than other forms of housing in the coastal zone, in a way that may be able to avoid significant adverse impacts on coastal resources.***

The City, HCD, and the Commission all acknowledged the importance of ADUs and the role they can play in creating new affordable housing types, however, strict implementation of the state statute directly conflicts with the city's Local Coastal Program, which would therefore create adverse impacts on coastal resources, thus conflicting with the Coastal Act (as discussed throughout this document).

The Type 3 Unit, while deviating from provisions of both the current LCP and state statute, allow for the greatest flexibility for homeowners and developers to add an ADU to their property. This track maximizes development potential, especially in a community where square footage is at a premium, and ensures coastal resources are protected at the same time through the city's discretionary review process discussed throughout the LCP is designed and developed to protect coastal resources.

ATTACHMENTS

Attachment A – Redline Draft Ordinance

Attachment B – Clean Draft Ordinance

Attachment C – [Coastal Commission Staff Report; Land Use Plan Re-Submittal ; November 21, 2002](#)

Attachment D – [Coastal Commission Staff Report; Land Use Plan Re-Submittal; February 13, 2003](#)

Attachment E – [Coastal Commission Staff Report; Implementation Plan Re-Submittal; Feb. 4, 2004](#)

Attachment F – [Coastal Commission Staff Report; Implementation Plan Re-Submittal; Sept. 23, 2004](#)
(LCP Adoption)

Attachment G – [State ADU Statute](#) (Government Code Section; Title 7; Chapter 13)

Attachment H – [California Coastal Act](#) (Public Resources Code; Division 20)

Guidance on Processing Local Coastal Program Amendments for Accessory Dwelling Units in the Coastal Zone

July 1, 2026



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Executive Summary

This Guidance on Processing Local Coastal Program (LCP) Amendments for Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs)¹ in the Coastal Zone provides the following key takeaways to guide local governments in preparation of LCP amendments related to ADUs:

1. The California Coastal Commission strongly urges local governments to:
 - A. **Review** existing ADU regulations in their LCPs.
 - B. **Add** new ADU policies and regulations in LCPs that have no such regulations or policies.
 - C. Expeditiously **update** any existing LCP policies regulating ADUs to conform with state ADU standards, in a manner that does not lessen the effect of the Coastal Act.
2. Local governments should use any flexibility allowed by LCPs to modify standards that conflict with State ADU Law or make construction of ADUs more difficult, so long as doing so does not lessen the effect of the Coastal Act by causing impacts to sensitive coastal resources or public coastal access or putting residents or structures at risk of coastal hazards.
3. There are three types of LCP amendments that the Commission can consider: minor, de minimis, and major.
 - A. "Minor" amendments: if a proposed ADU ordinance or update to an ADU ordinance contains clarifying or non-substantive changes that do not affect the kind, location, intensity, or density of use, or that simply modify the notification, hearing, or other procedures required for approving ADUs, the Commission would likely consider this to be a minor amendment that will not require a full public hearing in front of the Commission.
 - B. "De minimis" amendments: in contrast with "minor" amendments, may involve relatively substantive policy changes, so long as there are no impacts on coastal resources and no change in land use, water uses, or any change in the allowable use of property. These amendments also do not require a full public Commission hearing.

¹ This Guidance uses the general term "ADU" to refer to both accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs), unless stated otherwise.

- C. "Major" amendments: If an ADU ordinance or update thereto does not qualify as a de minimis or minor, including if it requires suggested modifications by the Commission to ensure that it conforms with the Coastal Act, then it must be processed as a standard, or "major," LCP amendment.
4. Local governments can reduce the frequency and complexity of LCP updates by structuring their ADU ordinances to be easily adaptable as State ADU Law evolves, for example by cross-referencing the current version of State ADU Law in the LCP or by including only coastal-specific ADU provisions in the LCP and relying on uncertified State ADU Law provisions for the rest. Such approaches can help keep LCPs current while ensuring protection of coastal resources consistent with the Coastal Act.
 5. Certified and uncertified jurisdictions may pursue Categorical Exclusion Orders to exempt ADUs from requiring a coastal development permit in areas or circumstances where they will pose no threat of having a significant adverse effect on coastal resources.
 6. Local governments should coordinate with HCD before adopting their LCP amendments at the local level or formally submitting them to the Commission. They should also coordinate early and often with the Commission when preparing an LCP amendment to reduce delays at the end of the process.

This document also includes a list of, and links to, recently certified LCP provisions related to ADUs.

I. Purpose

The California Coastal Commission has previously circulated several memos to assist local governments with understanding how to carry out their Coastal Act obligations while also implementing rapidly evolving state laws that regulate Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs).² [Senate Bill 1077](#) (Chapter 454, Statutes of 2024) requires the Commission to develop new ADU Guidance, in coordination with the California Department of Housing and Community Development (HCD). In fulfillment of the requirements of that statute, the purpose of this Guidance is to provide direction to local governments on how to facilitate the preparation of amendments to their certified local coastal programs (LCPs) that clarify and simplify the permitting process for ADUs and JADUs in the coastal zone. This Guidance also contains an overview of the authority that the Coastal Act grants the Commission and local governments over ADUs and JADUs in the coastal zone, and it clarifies how LCP amendments with ADU policies can be processed quickly while still ensuring Coastal Act consistency.

II. Background on ADUs in the Coastal Zone

The widening income gap and unmet demand for housing throughout the nation continues to exacerbate housing inequity in California, especially in coastal areas, where housing and rental costs are consistently above the state and national average. To address this critical issue, the state Legislature has enacted a number of laws over the last decade that are designed to encourage construction of additional homes in appropriate locations. In particular, state housing laws have been changed to facilitate development of ADUs and JADUs, which can be more affordable to build and to rent than other forms of market rate housing. In the coastal zone, some of these changes have modified the procedures that the Commission and local governments must follow when considering coastal development permit (CDP) applications for ADUs. However, when considering proposals for ADUs, local governments and the Commission must also apply the substantive resource protection requirements of the Coastal Act, and by extension, LCPs. Thus, local governments in the coastal zone must streamline approval of ADUs and JADUs in conformity with state housing law while also complying with, or creating new, LCP provisions that continue to protect coastal resources and coastal public access and ensure development is safe from coastal hazards.

A. Overview of New Legislation

In March 2026, HCD published the most recent version of its ADU Handbook, which gives an overview of legislative changes to State ADU Law as of January 1, 2026. Since publication of the previous version of HCD's ADU Handbook in 2025, the Legislature

² Memos published on [April 18, 2017](#); [November 20, 2017](#); [April 21, 2020](#); [January 21, 2022](#).

has enacted [AB 130](#) (Chapter 22, Statutes of 2025), [AB 462](#) (Chapter 491, Statutes of 2025), [AB 1154](#) (Chapter 507, Statutes of 2025), [SB 9](#) (Chapter 510, Statutes of 2025), and [SB 543](#) (Chapter 520, Statutes of 2025). Importantly, AB 462 makes coastal development permits (CDPs) approved by local governments for ADU-only (or JADU-only) projects no longer appealable to the Commission. It also shortens, from 90 days to 60 days, the deadline for the Coastal Commission and local governments to act on complete CDP applications for ADU-only, JADU-only, or ADU and JADU-only projects.

B. Coastal Act Authority

The Coastal Act includes standards that development in the coastal zone must meet, including specific policies addressing public coastal access, recreation, protection of habitats, development design, and other coastal planning topics. It also requires local governments within the coastal zone to develop LCPs (and amendments thereto), which are subject to Coastal Commission certification. Certified LCPs provide the standards and procedures the local government uses to apply the Coastal Act at the local level. They contain the rules for new development, policies for protection of coastal resources, and the associated processes to carry out the requirements. Each LCP contains a land use plan and implementing measures, such as zoning and maps. Once the Commission certifies an LCP, the local government assumes primary responsibility for permitting most development, including housing, within its coastal zone.

Approximately 90% of land in the coastal zone is covered by a certified LCP. In the remaining twelve (12) uncertified jurisdictions,³ as well as other areas of deferred certification and the Commission's retained CDP jurisdictional area, CDP applications are reviewed, and CDPs are issued, by the Commission directly.

The Coastal Act has a variety of provisions directly related to housing. Importantly, the Coastal Act does not "exempt local governments from meeting the requirements of state and federal law with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any law hereafter enacted" (Pub. Res. Code Section 30007). The Coastal Act also requires the Coastal Commission to encourage housing opportunities for low- and moderate-income households (Pub. Res. Code Section 30604(f)). Finally, new residential development must be "located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it" or in

³ The twelve remaining uncertified local jurisdictions are: Fortuna, City of Monterey, Goleta, City of Los Angeles, Hermosa Beach, Santa Monica, Torrance, Seal Beach, Costa Mesa, Aliso Viejo, San Clemente, and Solana Beach.

other areas with adequate public services and where development will not have significant adverse effects on coastal resources (Pub. Res. Code Section 30250).

Although the Coastal Act no longer gives the Commission the explicit authority to require or protect affordable housing in the coastal zone and states that “[n]o local coastal program shall be required to include housing policies and programs” (Pub. Res. Code Section 30500.1), nothing precludes local governments from submitting Land Use Plan Amendments with provisions that protect and encourage affordable housing consistent with the Chapter 3 policies of the Coastal Act.⁴ Once certified, these Land Use Plan policies become the standard of review for both Implementation Plan amendments and coastal development permits issued by the local government and by the Commission on appeal.

Through its existing authority, the Commission has continued to preserve existing density and affordable housing, including by supporting and encouraging the creation of ADUs and JADUs. The creation of new ADUs and JADUs in existing residential areas is one of many strategies that aims to increase housing stock by creating additional housing units of a type and size that can be more affordable than other forms of housing in the coastal zone. Coastal Act and LCP policies can also ensure that new ADUs and JADUs are developed in areas where they will be safe from hazards and will avoid significant adverse impacts on coastal resources.

III. ADU Ordinances and LCPs

State ADU Law provides the statutory minimum requirements for ADUs and JADUs. Local governments may elect to go beyond this statutory minimum to further the creation of ADUs and JADUs (Gov. Code Sections 66325(b), 66339.5(b)). To that end, local agencies may choose to adopt an ADU ordinance. The preparation, adoption, amendment, and implementation of local ADU ordinances must be carried out consistently with Government Code Section 66314 (and Section 66333 for JADUs) and must not unduly restrict the creation of ADUs (or JADUs). Once a local agency adopts an ADU ordinance, it may impose objective development and design standards in compliance with Government Code Section 66314 (or Section 66333 for JADUs).

⁴ For more information on the Commission’s historical interpretation and implementation of this authority, see [Report on Coastal Act Affordable Housing Policies and Implementation](#) dated February 10, 2015.

In the coastal zone, local governments must carry out State ADU Law in a manner that conforms with the Coastal Act.⁵ Because ADU ordinances affect zoning, design standards (e.g., height, setbacks, floor area), and other regulatory provisions governing development, local governments in the coastal zone should include them in their certified LCP in order to ensure protection of coastal resources. ADU ordinances are generally incorporated into the Implementation Plan, or IP, portion of the LCP. State ADU Law has changed frequently in recent years, but not all LCPs have been updated as frequently. As a result, many LCPs now have ADU provisions that are out of step with current State ADU Law. It is therefore imperative that local governments promptly review their LCPs and add or update ADU policies, as needed, to carry out the objectives of State ADU Law while also protecting significant coastal resources as required by the Coastal Act.

The Commission therefore strongly urges local governments to:

- 1) **REVIEW** their LCPs to determine what, if any, provisions regulate ADUs (which may also be called, e.g., "second units," "granny flats, or "guest units");
- 2) **ADD** new ADU policies and regulations in LCPs that have no such regulations or policies; new provisions should regulate ADUs in a manner that conforms with the substantive and procedural requirements of State ADU Law unless doing so would lessen the effect of the Coastal Act and its mandate to protect significant coastal resources;⁵ and
- 3) **Expediently UPDATE** any existing LCP policies regulating ADUs to the extent that such policies do not conform with current state ADU standards, are no longer necessary to protect significant coastal resources or carry out Coastal Act mandates, or make it difficult to approve ADU projects. New provisions should regulate ADUs in a manner that conforms with the substantive and procedural requirements of State ADU Law unless doing so would lessen the effect of the Coastal Act and its mandate to protect significant coastal resources.

⁵ See Govt. Code Section 66329, stating in relevant part that "nothing in this article shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall, pursuant to Section 66317, either approve or deny a coastal development permit application for an accessory dwelling within 60 days of receiving a completed application, and shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units."

During the time before an LCP is updated to reflect the current language of ADU law, local governments will need to carefully consider the extent to which they can apply their existing LCP provisions to regulate proposed ADU projects. In general, if a local government's LCP does not contain any ADU (or JADU) regulations, then it should process applications for ADUs pursuant to State ADU Law standards contained in Government Code Section 66310 et seq., but with the LCP lens applied. The local government should still review such applications for consistency with applicable coastal resource protection standards, including, but not limited to, standards related to protecting habitat, ensuring that new development will minimize risks from flooding and other coastal hazards, or establishing height limits that protect public coastal views. Applying these types of standards, which may at times require discretionary review, will ensure that ADU projects that proceed under State ADU Law will not lessen the intended effect of the Coastal Act, as carried out through LCPs.

If an LCP does contain ADU regulations, but those regulations are outdated, the Commission recommends that jurisdictions should continue to carry out LCP policies to the extent needed to protect coastal resources. However, the Commission encourages jurisdictions to be flexible in carrying out and interpreting their LCPs so that they can streamline the construction of ADUs without compromising coastal resource protections. For example, if LCPs allow for variances from standards that make ADU construction more difficult, jurisdictions should consider granting the variances unless they would result in impacts to sensitive coastal resources or public coastal access or put residents at risk of coastal hazards.

Some LCPs may contain side or front yard setback requirements or other design standards that conflict with State ADU Law and that are not necessary to protect coastal resources (e.g., they are not needed to protect public access, wetlands, or public view corridors). In such cases, the Commission believes that jurisdictions should use flexibility within LCPs (e.g., variances, administrative modifications of standards, ranges) to modify the standards in order to comply with State ADU Law without lessening the effect of the Coastal Act.

By contrast, development standards, such as setbacks, that are designed to protect sensitive habitats or to ensure that development is safe from erosion or other coastal hazards should not be modified, as this would lessen the effect of the Coastal Act's resource protection policies.

Many local governments have embraced ADUs as an important part of their overall housing policies, and they have amended their LCPs to include innovative strategies to expedite the permitting and construction process for ADUs and JADUs. Moreover, ADUs and JADUs are often clustered within an existing developed area, and as such, they may often result in fewer adverse impacts on the environment and on coastal resources. Thus, as an overall category of development, ADUs and JADUs are great candidates for streamlining—both in terms of authorizing individual projects, but also during Commission review of ADU ordinances (as LCP amendments) for Coastal Act compliance.

Takeaway: Local governments should update their LCPs to create or modify provisions related to ADUs in order to encourage and regulate them in line with State ADU Law while at the same time protecting coastal resources consistent with the Coastal Act. Prior to certification of such updates, local governments may have the discretion to modify some standards to facilitate new ADU construction, provided that coastal resources are not diminished as a result.

IV. Methods for Amending LCPs and Streamlining Opportunities

As shown by way of examples in Section VI of this Guidance, the Coastal Commission has prioritized ADU-related LCP amendments, and the Commission has streamlined the review when possible. The Coastal Act allows the Commission to process three types of LCP amendments, which in order from least to most complex include: (1) minor, (2) de minimis, and (3) major.

There are three ways that the Commission processes LCP amendments:

- 1) **Minor amendment**, which can include non-substantive revisions or procedural changes;
- 2) **De minimis amendment**, which means the amendment has no individual or cumulative impact on coastal resources; or
- 3) **Major amendment**, which typically involves anything that does not meet the definition of de minimis or minor amendments and/or involves suggested modifications.

A. Minor LCP Amendments

LCP amendments may be fast-tracked if the Commission's Executive Director determines they are "minor" in nature (Pub. Res. Code Section 30514(c)). Title 14 Section 13554(a) of the California Code of Regulations (CCR) provides that a minor amendment includes, but is not limited to, changes in wording which make designated uses in implementing actions more specific without affecting the kind, location, intensity, or density of use and that are consistent with the certified Land Use Plan. 14 CCR Section 13554, subsections (c) and (d) further provide that a minor amendment may include changes in the notification and hearing procedures that are consistent with the requirements of the Coastal Act or the correction, reorganization, revision, or deletion of certified Land Use Plan language which does not change the kind, location, intensity or density of use or modify the resource protection measures for any area.

If the Executive Director of the Commission determines that an amendment qualifies as "minor," it must be reported to the Commission at the next meeting. Unless one third of the appointed members of the Commission object to the Executive Director's determination, the minor LCP amendment will take effect on the 10th working day after Commission concurrence.

Takeaway: if a proposed ADU ordinance or update to an ADU ordinance contains clarifying or non-substantive items or simply modifies the notification, hearing, or other procedures required for approving ADUs, the Commission would likely consider this to be a minor amendment that will not require a full public hearing in front of the Commission.

B. De Minimis LCP Amendments

For "de minimis" LCP amendments, the proposed amendment cannot propose any change in land use, water uses, or any change in the allowable use of property; in addition, the amendment must have no impact, either individually or cumulatively, on coastal resources and must be consistent with the coastal resource protection policies of Chapter 3 of the Coastal Act. (Pub. Res. Code Section 30514(d)(1)). De minimis LCP amendments have slightly different noticing and public participation procedures than minor or major LCP amendments. Out of an abundance of caution, local governments may choose to satisfy these specific noticing/participation requirements as well as the noticing and public participation procedures for minor and major amendments, which would allow flexibility for processing if the Commission determines that an amendment does not fit the de minimis criteria. Alternatively, to ensure the best outcome, local governments should coordinate in advance with Commission staff for amendments where they intend to use the reduced de minimis noticing procedures.

If a local government finds that the amendment is de minimis and submits it to the Commission as such, the Commission's Executive Director must determine, within 10 working days of the date of submittal, whether the proposed LCP amendment qualifies for de minimis processing. This requires the Executive Director to find that the amendment meets the criteria above and that the local government has met certain local noticing requirements (Pub. Res. Code Section 30514(d)(1), (3)).

If the proposed amendment is determined to be de minimis, the proposed amendment is noticed on the agenda of the next regularly scheduled Commission meeting, along with any public comments forwarded by the local government. Unless three or more members of the Commission object to the Executive Director's de minimis determination, the de minimis LCP amendment will become part of the certified LCP upon adjournment of the Commission meeting that day. The Commission recommends local governments exercise this option when considering an ADU ordinance of a more limited scope, or which involves a simple update to an already certified ADU ordinance. While State ADU Law considers ADUs to be by-right development associated with residential development on any site zoned for residential or mixed use, local ADU policies may affect the allowable use of property, or ADU development may have adverse impacts on coastal resources, and thus not all ADU-related LCP amendments may be considered de minimis.

Takeaway: For expedited processing of ADU-related amendments, consider packaging all de minimis changes to a certified LCP as a single LCP amendment that can qualify as a de minimis amendment. "De minimis" amendments (in contrast with "minor" amendments, above) may involve relatively substantive policy changes, so long as there are no impacts on coastal resources.

C. Major LCP Amendments

Finally, if an ADU ordinance or update thereto does not qualify as a de minimis or minor LCP amendment, including if it requires suggested modifications by the Commission to ensure that it conforms with the Coastal Act, then it must be processed as a standard, or "major," LCP amendment. Local governments may submit no more than three major LCP amendment submittals in any calendar year, although there are no limits on the number of amendments included in each of those submittals (Pub. Res. Code Section 30514(b)). Thus, as a first order of streamlining, local governments may choose to

bundle major ADU ordinances with other housing actions or other types of LCP amendments for simultaneous Commission review.⁶

Additionally, as discussed in greater detail in Section V of this Guidance, the Commission strongly recommends that coastal jurisdictions coordinate with HCD early in the process, and prior to submitting proposed LCP amendments to the Commission, to ensure that proposed language is consistent with State ADU Law. This will minimize the need for either: 1) the Commission to suggest modifications to address changes requested by HCD,⁷ or 2) for the local government to withdraw its submittal, have it readopted by its council or board with the required modifications, and resubmit it to the Commission. In all cases, the Commission and HCD remain committed to expeditious collaboration with local jurisdictions to address questions and resolve potential conflicts.

The Commission, for good cause, may extend the time limitations for processing an LCP amendment by up to one year (Pub. Res. Code Section 30517). A time extension may be valuable in situations where the local jurisdiction and Commission staff need to work on mutually-agreeable suggested modifications, or the jurisdiction needs to draft a supplementary ordinance to address HCD's comments in a future LCP amendment or withdraw the LCP submittal and rework it to ensure compliance with State ADU Law. However, close and early coordination with HCD and Coastal Commission staff can help avoid the need for an extension whenever possible, and ensure that only the minimum extension period is actually used if an extension is necessary. By aligning the ADU ordinance with current State ADU Law, coordinating with HCD and Commission staff before local adoption, and addressing potential coastal resource impacts early, the LCP amendment process can proceed more efficiently and with fewer delays.

Takeaway: If an ADU ordinance or update does not qualify as a de minimis or minor, including if it requires suggested modifications by the Commission to ensure that it conforms with the Coastal Act, then it must be processed as a standard, or "major," LCP amendment.

⁶ Where appropriate, the Commission's Executive Director may still choose to parse out the ADU ordinance portion of the major LCP amendment submittal as a separate "part" (e.g., Part A, B, C, etc.) for recordkeeping, filing, and/or consideration.

⁷ To the extent that such modifications are needed to comply with the Coastal Act (for Land Use Plan amendments) or the Land Use Plan (for Implementation Plan amendments).

D. External References

Given that State ADU Law has been amended frequently in recent years, and that future amendments may continue to occur regularly, it can be time-consuming for local governments in the coastal zone to incorporate these changes through frequent LCP amendments. However, it is also crucial that LCPs remain adaptable to a changing regulatory landscape and do not become out of date as state housing laws change. The Commission can assist local governments in structuring their ADU ordinances so that future LCP amendments are not needed as frequently or can be simplified, such as by building in flexibility to allow for more limited or less substantive updates, which would make the Commission's review faster and easier.

One potential option, which local governments have sometimes requested, is to have LCPs cross-reference State ADU Law (Gov. Code Sections 66310-66342) rather than spell out all of the applicable requirements of ADU law in an LCP. This would allow LCPs to be shorter, as they would not need to include all of the specific language contained in State ADU Law. It could also reduce the potential for LCP language to become out of date when State ADU Law changes, thus lessening the need to make corresponding changes to the LCP every time state law is amended.

However, the Commission has not accepted the approach of fully incorporating State ADU Law (or most other external laws or regulations) into an LCP by reference. This is because, to certify an LCP amendment, the Commission must find that it conforms with the Coastal Act's Chapter 3 policies (for a Land Use Plan, or LUP) or conforms with and is adequate to carry out the provisions of the certified LUP (for an Implementation Plan amendment). If an LCP amendment contains an external reference, the Commission can look at that reference—such as current ADU law—and determine if it conforms with the Coastal Act or LUP. But it cannot determine that all *future changes* to the outside reference will still conform with the Coastal Act or LUP. Accordingly, the Commission has historically found that it cannot certify, as part of LCPs, outside references that may change in the future, because there is no way to know whether such future changes will make the LCP amendment no longer consistent with the Coastal Act or LUP standard of review.

However, there are two potential ways to address this issue. First, the Commission has sometimes allowed LCPs to incorporate outside documents or laws by reference so long as the LCP clearly states that it is only incorporating the version of the outside reference that exists as of a specified date (e.g., January 1, 20XX) or the date of

Commission certification.⁸ This approach allows a local jurisdiction to incorporate an outside law's provisions, such as state ADU requirements, into the LCP without having to draft new LCP provisions that reiterate the law. This approach requires that a copy of the outside law be kept so that applicants designing projects and future decisionmakers can find the version of the law that was incorporated in the LCP. As such, it ensures that the Commission has the opportunity to certify that the provisions being incorporated into the LCP are consistent with the Coastal Act or LUP.

This approach still requires future (potentially frequent) LCP updates if there are changes to the outside document/law that need to be incorporated into the LCP. However, those updates may be limited in scope; for example, the local jurisdiction could simply update the reference date in the ordinance if changes to State ADU Law do not raise Coastal Act issues, which can be processed as a minor or de minimis LCP amendment. A minor or de minimis LCP amendment may also be appropriate even in cases where changes to State ADU Law do raise Coastal Act concerns, if the local jurisdiction properly addresses such concerns in the proposed amendment. In other words, such an approach could help local jurisdictions avoid processing a major LCP amendment to match new State ADU Law language. Should local governments have questions about incorporating new language into their LCP, they should reach out to Commission staff as noted in section VII of this Guidance.

A second potential approach is to not fully incorporate State ADU Law into an LCP, but rather to have an LCP that only includes a few specific provisions related to ADUs. In other words, the local government would only submit to the Commission portions of a full ADU ordinance (e.g., per Gov. Code Sections 66314, 66323, 66333) that are relevant to Coastal Act priorities as part of an LCP amendment. For example, an LCP could specify that ADUs are permitted uses in any zone that allows residential uses, specify the procedures for processing CDPs for ADUs, and describe the coastal resource protection policies that apply to ADU projects, such as standards related to sensitive habitat, coastal hazards, and public coastal access.⁹ The LCP would not, however, need to include standards for all of the issues that State ADU Law addresses; thus, it might not include things such as definitions of terms, ADU minimum or maximum sizes, or building setbacks or height limits, unless there was a need to provide a standard to address specific coastal resource concerns. Because local governments are

⁸ E.g., [LCP-6-CAR-23-0048-1](#) (Carlsbad, ADU Update 2023), [LCP-4-STB-24-0064-2](#) (Santa Barbara County, SB 423), [LCP-6-OCN-25-0029-2](#) (Oceanside, Downtown Density).

⁹ See [LCP-3-STC-25-0040-2-Part A](#) (City of Santa Cruz, ADUs/Code Updates). This approach has also been certified for Density Bonus Law LCP amendments, e.g., [LCP-6-CAR-20-0078-2](#) (Carlsbad, Density Bonus Update), [LCP-3-SLO-21-0025-1-Part D](#) (San Luis Obispo County, Density Bonus Regulations), [LCP-4-VNT-25-0010-1](#) (Ventura County, Housing Bill Implementation Ordinance).

required to follow State ADU Law, they would be subject to and would need to follow those laws even if they were not incorporated, either explicitly or by reference, into an LCP.¹⁰ In this way, the LCP would be akin to a Coastal Act overlay on top of the local government's other state law obligations related to ADUs by specifying additional or alternative standards that apply to ADUs in the coastal zone to protect significant coastal resources.

This approach might provide a method that would prevent the need to update LCPs as often. If State ADU Law provisions changed, the LCP would not necessarily need to be updated so long as the State ADU Law changes did not affect how that law interacts with the Coastal Act. Rather, the LCP provisions protecting coastal resources would continue to apply and ensure that the effect of the Coastal Act was not lessened, as required by Government Code Section 66329.

Takeaway: Local governments can reduce the frequency and complexity of LCP updates by structuring their ADU ordinances to be easily adaptable as State ADU Law evolves, for example by cross-referencing the current version of state law or by including coastal-specific ADU provisions and relying on state law for the rest. Such approaches can help keep LCPs current while ensuring protection of coastal resources consistent with the Coastal Act.

E. Categorical Exclusion Orders

A Categorical Exclusion Order can provide a narrowly tailored CDP exemption for ADUs and JADUs that clearly pose no significant risk to coastal resources—for example, when they are clustered with existing development and located within already developed or urbanized areas. The Coastal Act authorizes the Commission to exclude from CDP requirements any category of development within a specifically defined geographic area if the Commission finds that: 1) the exclusion will not result in a potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast; and 2) where the exclusion precedes certification of an LCP, it will not impair the ability of the local government to prepare an LCP in the future (Pub. Res. Code Section 30610(e)).¹¹ Categorical Exclusion (Cat Ex) Orders are prohibited from applying to: tide and submerged lands; beaches; lots immediately

¹⁰ If they were not incorporated in an LCP, these provisions of State ADU Law would not be the standard of review for CDPs, but jurisdictions would still need to comply with the law in taking any actions to approve ADUs.

¹¹ The regulations governing Cat Ex Orders can be found at Title 14 California Code of Regulations Sections 13240-49, and additional descriptions of how Cat Ex Orders operate can be found in the Commission's [Summary of Categorical Exclusion Orders](#).

adjacent to the inland extent of any beach; lots immediately adjacent to the mean high tide line of the sea where there is no beach; and public trust lands (Pub. Res. Code Section 30610.5(b)).

Both certified and uncertified jurisdictions may choose a Cat Ex as an avenue to streamline the approval process for ADU and JADU development in areas that pose no significant risk of impacts to coastal resources. For jurisdictions that do not have a Cat Ex Order, or whose Cat Ex does not include ADU development, local governments may propose a new and separate Cat Ex Order or amend an existing Cat Ex Order to allow for ADU and JADU development without the need for CDPs. Commission staff has previously coordinated with several uncertified jurisdictions and continues to encourage them to consider a Cat Ex as a viable option for providing local Coastal Act authorization for ADUs and JADUs without an LCP.¹²

Local governments should consult with Commission staff if they intend to propose a Cat Ex Order. Such Orders are processed separately from LCP amendments, require a two-thirds vote of the Commission's appointed membership to be approved, and are typically subject to conditions. Moreover, Coastal Act Section 30610.5(b) requires that Cat Ex Orders "assure no significant change in density, height, or nature of uses;" in infill and urban areas, some ADUs may meet this standard if they are in existing developed areas with similar heights on lots that already allow residential uses. For ADUs that otherwise would not qualify, a local jurisdiction would use other proceedings under the Coastal Act, such as a CDP or CDP waiver.

Once approved, the local government is responsible for reviewing and granting exclusions, consistent with the terms and conditions of the Cat Ex Order and is typically required to report all exclusions granted to the Commission. It is important to note that, while Cat Ex Orders can be a powerful tool, the Commission may only approve one if it concludes that the specific category of development in a specific geographic area has no potential for any significant adverse coastal resource impacts. Thus, the local government pursuing a Cat Ex must provide evidence that can show that to be the case.

Takeaway: Certified and uncertified jurisdictions may pursue Categorical Exclusion Orders to exempt ADUs from requiring a CDP in areas or circumstances where they will pose no threat to coastal resources.

¹² Notably, the Legislature has endorsed the use of Cat Ex Orders to streamline authorization of affordable housing projects. See SB 484 (Laird, Ch. 416, Stats. 2025) requiring the Commission to craft three Cat Ex Orders for jurisdictions without LCPs that would exclude deed-restricted affordable housing projects in infill areas from CDP requirements.

V. Interagency Coordination: Local Governments, HCD, and the Coastal Commission

HCD has enforcement authority over State ADU Law, including ADU ordinances, and as such, issues technical guidance documents on ADUs and regularly provides technical assistance on these laws, including “preliminary reviews” of draft ADU ordinances for local governments in the coastal zone. Moreover, State ADU Law requires local governments to submit ADU ordinances to HCD within 60 days after adoption; an ordinance becomes null and void if not submitted to HCD on time or if the jurisdiction does not address HCD comments in a timely manner.¹³ Because the Coastal Commission must certify ADU ordinances in the coastal zone as part of certified LCPs, Commission and HCD staff have devised a protocol whereby HCD staff conducts a preliminary review of the proposed ADU ordinance prior to Commission certification. Therefore, local governments should coordinate with HCD before adopting their LCP amendments at the local level or submitting them to the Commission. This pre-submittal coordination with HCD can help avoid the need for local governments to resubmit a pending LCP amendment or to submit additional LCP amendments after certification to address changes required by HCD.

Local governments should submit draft LCP amendments implementing ADU law to the [HCD ADU Portal](#) before they are locally adopted.¹⁴ Local governments should include in the submittal summary or in a cover letter contact information for their primary Coastal Commission staff person and that the submittal is a draft LCP amendment. Once HCD staff undertakes its preliminary review of the proposed ADU ordinance, it will provide comments to the local government, which must incorporate all comments, or otherwise explain why the proposed language is necessary to comply with the Coastal Act (and thus why HCD’s requested changes cannot be implemented). Coordination may need to occur between HCD staff, Commission staff, and the local government staff, should issues arise. Once the local government adequately addresses all preliminary comments, its council or board can formally adopt the ADU ordinance and submit it to the Coastal Commission as an LCP amendment. The LCP submittal should include a summary of how HCD’s comments, if any, were addressed. Commission staff may determine that a pending application for an LCP amendment implementing ADU law is ‘incomplete’ without copies or summaries of comments received from HCD and of the local government’s response to these comments.

¹³ Gov. Code Sections 66326 (d), 66333.5(d).

¹⁴ Note that for requests related to a specific ADU or JADU project, local agencies can also submit their inquiries via HCD’s ADU Portal.

If a local government has already submitted an LCP amendment to the Commission, or if Commission staff have already deemed an LCP amendment application complete—without the requisite preliminary review or comments addressed—the local government should still submit the LCP amendment to HCD via the applicable portal, and Commission staff may need to coordinate with HCD on the timing for HCD review. This post-submittal review can raise challenges because the Commission has limited authority to suggest modifications to address any housing law changes flagged by HCD.¹⁵ As a result, local governments may be required to withdraw and resubmit a modified LCP amendment that addresses HCD’s issues, or to submit another LCP amendment after the initial amendment is certified to resolve any state housing law consistency issues identified by HCD.

Once an LCP amendment is filed, Commission staff will continue to coordinate with local government and HCD staff on the staff recommendation, especially if there are suggested modifications or additional issues to be resolved prior to the hearing.

Takeaway: Local governments should coordinate with HCD before adopting their LCP amendments at the local level or formally submitting them to the Commission. They should also coordinate early and often with the Commission when preparing an LCP amendment to reduce delays at the end of the process.

VI. Examples of Recently Updated ADU Provisions in Certified LCPs

A number of local jurisdictions have recently updated their LCPs to include new ADU provisions. Coastal Commission staff reports are linked below, which summarize issues that arose between Coastal Act requirements and the new ADU provisions as well as the changes that were made in order to harmonize each jurisdiction’s LCP with the state housing laws. The suggested modifications shown in the staff reports were all approved by the Coastal Commission and approved by the local governments.

[County of Santa Cruz \(approved March 2022\).](#) This minor LCP amendment refined substantive and procedural parameters with respect to the County’s ADU provisions.

¹⁵ If necessary, a local government can request that the Commission make suggested modifications to address HCD comments, and the Commission may consider making “friendly” suggested modifications to address these issues. The local government would then need to take any Commission-suggested modifications back to its council or board for a public hearing and adoption. See generally, Pub. Res. Code Sections 30512(b), 30513; 14 CCR Sections 13532, 13544 (governing process for suggested modifications).

For instance, the amendment changed the definition of “conversion ADUs,” specified coastal resource protection measures, and modified ADU parking standards and precisely targeted parking requirements within the urbanized portion of the County. In agriculturally-zoned properties and rural timberlands, the County retained existing requirements and findings for ADUs (such as clustering within existing residences) that ensure protection of continued agricultural or timber production and minimization of any loss of productive lands.

County of Santa Barbara (approved February 2024). This de minimis LCP amendment modified existing zoning standards and added new standards pertaining to accessory dwelling units (ADU) to comply with recent changes to state housing law, including [SB 897](#) (2022) and [AB 2221](#) (2022). These included increases to maximum height standards for certain ADUs, allowing ADUs to be stacked above other accessory structures, revisions to existing definitions, modifying how floor area is calculated, revising lot requirements to allow the combination of one conversion ADU and one new construction detached ADU on a lot within residential and mixed-use zones, objective design standards, and requiring replacement parking for principal dwellings proposing ADUs within certain geographic coastal areas where there were public access concerns related to parking.

City of Carlsbad (approved February 2025). This major LCP amendment changed the effective dates in the definitions section, clarified parking requirements in rural residential areas, provided additional provisions on how the City can approve or deny ADUs, updated height development standards, updated references to State ADU Law, and removed conflicting language for development standards in certain zones. These changes reflected requirements under [SB 897](#) (2022) and [AB 2221](#) (2022).

City of Del Mar (approved March 2025). This major LCP amendment streamlined the existing processes for the construction of ADUs and JADUs on most parcels in the City, and the Commission made suggested modifications to ensure that ADUs or JADUs do not result in new or increased impact to coastal resources including hazards, environmentally sensitive habitat areas, wetlands, and public views.

City of Santa Cruz (approved September 2025). This de minimis LCP amendment modified the regulations governing ADUs and JADUs in accordance with state housing law (including changes associated with [AB 976](#) (2023), [587](#) (2019), [1033](#) (2023), [2533](#) (2024), and [SB 1211](#) (2024)), and to make minor changes to public hearing requirements associated with the application of objective design standards. Importantly, the amendment modified ADU review and processing in the coastal zone via a new administrative coastal permit process for ADUs that makes clear that ADUs within the coastal zone are processed administratively and without a public hearing.

[County of Monterey \(approved October 2025\)](#). This LCP amendment expanded where ADUs are allowed to include all zones that currently allow for single-family residences, while also requiring ADUs to meet all applicable LCP coastal resource requirements, such as prohibitions in sensitive habitats (such as wetlands, streams, environmentally sensitive habitat areas, and their corresponding buffers), protections of agriculturally productive soils and the agricultural economy, prohibitions on visibility in Big Sur's critical viewshed, and required evidence of adequate water and wastewater. The amendment specified size and length of tenancy requirements in Big Sur, but eliminated minimum parcel size requirements.

VII. Conclusion

The Coastal Act and ADU laws are complementary, serving to encourage housing in the coastal zone while protecting coastal resources. However, recent and frequent changes to state ADU requirements, which are intended to expand housing opportunities, have created additional responsibilities for local governments. Updating local ordinances and LCPs to reflect these evolving laws can be challenging, particularly given limited time and capacity; however, doing so can help create a more predictable permitting process that provides housing opportunities while protecting coastal resources.

There are several ways to structure and process an LCP amendment to improve efficiency and minimize delays. This Guidance outlines potential approaches for local governments as they consider their specific circumstances and determine how best to update ADU provisions. Section IV.D, in particular, discusses the option of focusing LCP amendments on Coastal Act-related issues rather than incorporating all ADU design standards. This strategy can reduce the number of future amendments needed as State ADU Law continues to evolve. The Guidance also highlights a range of Coastal Act tools such as streamlined LCP amendment procedures and Categorical Exclusion Orders that can expedite ADU approvals while maintaining consistency with the Coastal Act and the certified LCP.

This document provides examples of recent ADU ordinances adopted in the coastal zone to illustrate different local approaches and demonstrate how early coordination with HCD and Coastal Commission staff can help resolve issues proactively. Local governments are encouraged to contact their appropriate [Coastal Commission district office](#) to discuss approaches that best support local goals and priorities. The Commission welcomes the opportunity to provide technical assistance, feedback, and tailored guidance to ensure an efficient, transparent, and successful process.

CALIFORNIA COASTAL COMMISSION

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Th7b

November 21, 2002

TO: Commissioners and Interested Persons

FROM: Charles Lester, District Director
Diane Landry, District Manager
Rick Hyman, Deputy Chief Planner
Mike Watson, Coastal Planner

RECORD PACKET COPY

SUBJECT: **CITY OF CARMEL-BY-THE-SEA: LAND USE PLAN RE-SUBMITTAL (3rd)**. For public hearing and Commission action at its meeting of December 12, 2002 to be held in San Francisco at the Hyatt Regency-Embarcadero, 5 Embarcadero Center, San Francisco, CA 94111.

SYNOPSIS

DESCRIPTION OF THE SUBMITTAL This is the Executive Director's Staff Report and Recommendation on the City of Carmel-by-the-Sea Local Coastal Program (LCP) Land Use Plan (LUP). This is the third re-submittal of the Land Use Plan. The previous iterations were prepared in the early 1980's. The current submittal is an entirely new compilation of documents and policies developed over the last several years, and consists of three main chapters and six appendices. It was submitted on December 20, 2001, but could not be filed due to a lack of some supporting documentation. Meanwhile Coastal staff worked with City staff on issues raised by the submittal. The City Council passed and submitted an amended version of the Plan on November 12, 2002. The standard of review of the land use plan is Chapter 3 policies of the California Coastal Act. The City has also forwarded a companion Coastal Implementation Plan that is not yet filed and will be considered at a later date.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission hold a public hearing and take the following action for the City of Carmel-by-the-Sea Land Use Plan: First staff recommends Denial of the Land Use Plan as resubmitted. Then staff recommends approval if the re-submittal is modified. The City has six months to accept the modifications or the re-submittal stands denied.

The recommendation for denial of the LUP is based on inconsistencies of the re-submittal with several Coastal Act policies: those requiring scenic and community character protection, providing for public access and recreation and ensuring that

**California Coastal Commission**

development is commensurate with the level of public services (in this case, water) available.

The recommendation for Certification of the Land Use Plan contains Suggested Modifications to address each of the noted deficiencies as discussed below.

SUMMARY OF UNRESOLVED ISSUES

Community Character:

The proposed land use plan contains several policies designed to ensure that Carmel-by-the Sea's unique community character is retained. Over the years Carmel's community character has changed significantly, as the community has redeveloped. Through the permit review process, and this LCP review, the Commission has identified specific ways that the character is being eroded; including replacing smaller homes with larger homes, increased tree removal, greater lot coverage, incompatible designs, and general loss of potential historic structures. Although the proposed land use plan has several policies that address each of these elements of community character, they are somewhat general, non-directive, and in some cases permissive. If the Land Use Plan were approved as submitted, community character would not be protected.

Therefore, staff recommends that modifications be adopted to bring the LUP into conformance with Chapter 3 of the Coastal Act. These modifications in large part add a series of design criteria to the land use plan. These suggested additions are based primarily on the City of Carmel-by-the-Sea's own Designs Tradition document. While application of these modified policies will still leave considerable discretion to the City decision-makers on matters of design style and elements, it will also better ensure that new development fits within the City's existing community character.

The Land Use Plan has a series of policies designed to protect Carmel-by-the-Sea's historical structures, which are a significant component of the City's overall community character. Generally, these policies define what is historic and limit the amount of alterations that could occur to these structures. However, the Land Use Plan is deficient in describing key components of the identification process and in ensuring that all identified resources are subject to the appropriate regulatory policies, thereby, not assuring that all significant historical structures will be protected. Therefore, modifications are suggested with regard to the Historical Preservation Board, the Carmel Inventory of Historic Resources, the City's Historic Context Statement, the site inspection process, the California Register of Historic Resources criteria, and the development review process.

Public Access and Recreation:

The proposed Land Use Plan has a good description of the various public access and recreational and visitor-serving opportunities available. Carmel-by-the-Sea is a popular visitor destination with a spectacular white sandy beach, bluff-top pathway, vibrant



downtown shopping area, numerous overnight accommodations, and picturesque streets and residences. In general, the Land Use Plan policies call for protecting these facilities and access to them and for some improvements. However, staff has identified three deficiencies with the policies that would have adverse implications for public access and visitor-serving facilities. First, the land use plan places significant restrictions on beach parking in the evening hours, thereby depriving visitors of a way to be able to conveniently access the beach. Second, the land use plan does not address proposed abandonment of a shoreline street that could provide public access. Finally, the land use plan does not address retention of lower cost visitor serving facilities. Therefore, staff is recommending modifications to increase hours of available parking, mitigate the street abandonment, and retain lower cost visitor opportunities.

Hazards

The proposed land use plan generally addresses coastal hazard issues in conjunction with shoreline policies. This is appropriate because, for the most part, coastal hazard issues within Carmel are predominantly shoreline related (including preserving Carmel Beach and shoreline environs consistent with the established character and aesthetic there). The policies propose a series of analytical studies to allow the City and the Commission to better understand the interplay of natural shoreline process and how these processes have been, and will continue to be, affected by the inland urban development, including the seawalls and revetments that cover much of the Carmel's back beach shoreline. Additional policies are proposed that are designed to describe the circumstances under which shoreline armoring is allowed and how to manage the overall shoreline area. The intent of the proposed policies is to preserve and enhance the Carmel Beach shoreline area to ensure that this public access jewel remains in place and retains its charm for current and future generations to enjoy.

The submitted LUP generally responds to Coastal Act hazard policies, but it isn't entirely consistent with the Act in each case. There is also a lack of clarity and some internal inconsistency within the proposed policies that could lead to confusion when the LUP is implemented in the future. Such confusion would be at the expense of the coastal resources it is designed to protect. Therefore, staff is recommending modifications designed to clarify the contextual background, the range of information necessary to adequately understand Carmel Beach shoreline dynamics, the types of armoring projects that may be allowed in the future (and the types of measures necessary to ensure that they are consistent with the character of the beach area), and the measures necessary to preserve the beach area in a hazards context.

Public Works

The proposed land use plan generally adequately describes the City's public infrastructure and offers policies for its future improvements and maintenance.



However, the City of Carmel-by-the-Sea is in an area that basically is out of water and the proposed policies do not adequately address this situation in a manner consistent with the Coastal Act. Therefore, staff is recommending modifications to follow use priorities of the Coastal Act, ensure development applications are complete with regard to available water sources, and prohibit individual private wells or desalination facilities.

Other Issues

By and large the proposed Land Use Plan adequately addresses issues of archaeological resources, ESHA, and water quality protection. There are proposed policies for identification and preservation of archaeological sites and environmentally sensitive habitats. The City also commits to a number of actions to actively manage and improve its habitat areas. Similarly, there are proposed policies to address storm water runoff in a manner to prevent water pollution, ultimately of Carmel Bay. There are a two omissions from having a comprehensive set of water quality policies regarding limiting site coverage and meeting the 85th percentile storm event. There are also a few updates that need to be made to the ESHA discussion. Therefore, staff is recommending modifications to add to the water quality policies and update the ESHA policies.

In terms of other Coastal Act topics, they are not relevant and thus not discussed in this report. The City of Carmel-by-the-Sea lacks any agricultural land, timberlands, boating facilities, dams, coastal-dependent industries, or major energy plants.

PUBLIC PARTICIPATION SUMMARY

The noted issues and others of more local concern were debated in many public forums. The City has provided a detailed summary of public participation available for review at the Commission offices. As described, the Land Use Plan is a compilation of and based on material from different documents. Many of these were subject to local hearings. The City Council, Planning Commission, and other City committees held at least a combined 140 public hearings on various aspects of the Plan.

ADDITIONAL INFORMATION

For further information on the Land Use Plan or the staff report, contact Mike Watson at (831) 427-4863. Correspondence should be sent to the Santa Cruz district office at 700 Front St., Ste. 300, Santa Cruz, CA 95060.



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I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS

Staff recommends adoption of the following resolutions:

Resolution I. (Resolution to certify the Carmel-by-the Sea Land Use Plan as submitted)

Staff recommends a **NO** vote on the motion below. Failure of this motion will result in denial of certification of the land use plan as submitted and adoption of the following resolution and findings. The motion passes only upon an affirmative vote of a majority of the appointed Commissioners.

Motion #1: *I move that the Commission certify the Land Use Plan for the City of Carmel-by-the-Sea Local Coastal Program as submitted.*

Resolution to Deny Certification: *The Commission hereby denies certification of the Land Use Plan of the City of Carmel-by-the-Sea Local Coastal Program for the reasons discussed below and because the City of Carmel-by-the-Sea Land Use Plan fails to meet the requirements of and does not conform to the policies of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act; is not consistent with*



applicable decisions of the Commission which shall guide the local government in its future actions under Section 30625(c) of the Coastal Act; and does not meet the requirements of Sections 21080.5(d)(2)(i) of the California Environmental Quality Act, because there are feasible alternatives or mitigation measures available that would substantially lessen any significant adverse impact that the Land Use Plan may have on the environment.

Resolution II. (Resolution to certify the City of Carmel-by-the-Sea Land Use Plan if modified)

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the Land Use Plan with the suggested modifications and adoption of the following resolution and findings. The motion to certify with the suggested modifications passes only upon an affirmative vote of a majority of the appointed Commissioners.

Motion #2: *I move that the Commission certify the Land Use Plan as submitted by the City of Carmel-by-the-Sea , if modified as suggested by the following modifications in this staff report.*

Resolution to Certify the Land Use Plan if Modified: *The Commission hereby certifies the Land Use Plan of the City of Carmel-by-the-Sea Local Coastal Program subject to the following modifications, and adopts the findings set forth below on the grounds that, if modified as suggested below, the Land Use Plan will meet the requirements of conformance with the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act; the Land Use Plan will contain a specific access component as required by Section 30500(a) of the Coastal Act; the Land Use Plan will be consistent with applicable decisions of the Commission that shall guide local government actions pursuant to Section 30625(c); and certification of the Land Use Plan will meet the requirements of Section 21080.5(d)(2)(i) of the California Environmental Quality Act, as there would be no further feasible mitigation measures or feasible alternatives which could substantially lessen significant adverse impacts on the environment. The suggested modifications to the submittal are necessary to achieve the basic state goals set forth in Section 30001.5 of the Coastal Act.*

The Commission finds that if the City of Carmel-by-the-Sea adopts and transmits its revisions to the Land Use Plan in conformity with the suggested modifications, then the Executive Director shall so notify the Commission.

II. SUGGESTED MODIFICATIONS

The Commission suggests that the following changes to the submitted City of Carmel-by-the-Sea Land Use Plan are necessary to make the requisite findings. If the local



government accepts the suggested modifications within six months of Commission action, by formal resolution of the City Council, the Land Use Plan will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

COMMUNITY CHARACTER

1. Add the following new policy to page 37. New residential development shall maintain Carmel's enduring design principles of variety, modesty, and simplicity, and shall draw from and contribute to its neighborhood by generously providing for open space and preserving the City's traditions of simple homes set amidst a forest landscape.

2. Add the following new policy to page 37. New residential development shall be similar in size, scale, and form to buildings in the immediate block and neighborhood. Minimize the mass of building as seen from the public way or adjacent properties. Require building mass of new development to relate to the context of other homes in the vicinity. Larger building masses should be divided into forms that are similar in scale to houses seen in the immediate neighborhood.

3. Add the following new policy to page 37. Require preparation of a preliminary site assessment that includes assessing the block and neighborhood as well as the resource constraints of the site prior to submittal of design plans for new development or projects that will alter the building footprint, add a second story or involve excavation. A site plan shall be prepared by a qualified professional and illustrate topography, drainage features, existing trees and structures, street edge, and existing conditions on immediately adjacent properties. Require a Forest Enhancement and Maintenance Plan during the site assessment. The Plan shall address the impacts of the proposed development on the existing forest conditions of the site. Site plan designs shall recognize the constraints of the land and work within these limitations. Minimize the extent of excavation and fill on a site; new development shall follow the natural contours of the site.

4. Add the following new policy to page 37. Maintain and enhance the informal, vegetated, open space character of the City's right-of-way. Trees in the right-of-way shall not be removed to provide parking. With the exception of driveways, new paving in the right-of-way is prohibited.

5. Add the following new policy to page 37. Prohibit the removal of significant trees (i.e., greater than 12" dbh) unless it would prevent a reasonable economic use of the site or pose a threat to health and safety. Locate buildings and other site structures to avoid removal and pruning and otherwise minimize damage to existing significant trees. Avoid impacts to trees by avoiding/minimizing impacts



to the root protection zone (i.e., within the drip-line). Establish continuity of landscape elements throughout each neighborhood. Replace trees removed for construction with several saplings. Require that they be nurtured until well established.

6. Add the following new policy to page 37. All demolitions, remodels, and substantial alterations shall be consistent with the following findings:

- The design uses simple/modest building forms and roof plans, and a restrained employment of offsets and appendages consistent with neighborhood character.
- Mass of the building relates to the context of other homes in the vicinity.
- The development is similar in size, scale, and form to buildings on the immediate block and neighborhood.
- The development does not require removal of any significant trees (> 12" dbh) unless necessary to provide a viable economic use or protect public health and safety. All development will be setback a minimum of 6 feet from significant trees.

7. Add the following new policy to page 37. Limit above grade floor area on single lots (i.e., 4,000 square feet) to a maximum of 1,600 square feet. Projects with less above grade square footage shall be preferred. Structural coverage shall not exceed 40% of the site. Total site coverage (structural and other impervious coverage) on 4,000 square foot lots shall not exceed 50% of the site. Locate open space so that it visually links with adjacent properties.

8. Revise description of land use density for Single-Family Residential on page 29, LAST TWO SENTENCES; Above-ground building intensity in this area may not exceed ~~45~~ 40 percent floor area ratio and all development requires at least ~~45~~ 50 percent open space, ~~with proportionately less floor area and greater open space are required on larger lots greater than 4,000 square feet.~~

HISTORICAL PRESERVATION

9. Add the following text to page 23, END OF 1ST PARAGRAPH; The Carmel Inventory of Historic Resources shall be updated on an ongoing basis as new resources are surveyed. Properties not listed on the Inventory shall be evaluated on a case-by-case basis as the need arises (e.g., when an application is filed for demolition or alteration, etc.).



10. Add the following new policy to page 44. All resources previously surveyed and evaluated by the City that meet the criteria established by the City's LCP shall, as of the date of certification of the Carmel-by-the-Sea LCP, be deemed included in the Carmel Inventory of Historic Resources.

11. Revise policy P9-62 on page 44. Maintain an Historic Context Statement that documents the historic periods, themes, events, people, architects and builders who have contributed to the cultural and developmental history of the City. Use the Historic Context Statement to identify, document and understand the importance of historic resources. Exclusion from this document shall not preclude a finding of significance for any resource. The Historic Context Statement shall be updated at least every five years. Updates shall be submitted to the California Coastal Commission as LCP amendments. ~~periodically to remain current~~ (See Appendix F: Historic Context Statement, Carmel-by-the-Sea, 1997).

12. Revise policy P9-63 on page 45. Apply California Register of Historical Resources (California Register) criteria¹ ~~as the framework~~ to identify and document all historic resources. Use the Historic Context Statement to interpret the California Register criteria in determining the significance of Carmel's historic resources.

13. Revise policy P9-64 on page 45. To qualify for listing in the Carmel Inventory, historic resources shall meet at least one of the California Register criteria, shall be representative of at least one theme included in the Historic Context Statement and shall retain substantial integrity². Integrity (association, feeling, setting, location, design, materials and workmanship) shall be documented by comparing the existing condition of the resource with the original building plans or early photographs or other substantial evidence (e.g. literature review, architectural files, land records, Sanborn maps, etc.) and/or by physical inspection by a qualified historic preservation professional.

14. Revise policy P9-65 on page 46. To qualify for listing in the Carmel Inventory, an historic resource eligible under ~~for the California Register under just criterion #3 only,~~ ~~shall be required to meet a higher standard for integrity than is required for resources qualifying under criteria #1, #2 or #4,~~ and shall: (1) have been designed and/or constructed by an architect, design/builder or contractor whose work has contributed to

¹ The California Register has four criteria for historic significance. These (1) are associated with events that have made a significant contribution to broad patterns of local or regional history or the cultural heritage of California or the United States; or (2) are associated with the lives of persons important to local, California or national history; or (3) embody the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values; or (4) has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.

² Integrity is based on why a property is significant. Ultimately, the question of integrity is answered by whether or not the property retains the identity for which it is significant. The steps in assessing integrity are (1) defining the physical features that must be present for a property to represent its significance, (2) determining whether these features are still visible enough to convey significance, (3) determining whether the property needs to be compared to other similar properties to understand its significance and (4) determine which aspects of integrity are vital if the property is to qualify as a resource (adapted from the National Register of Historic Resources, Bulletin #15).



the unique sense of time and place recognized as significant in the Historic Context Statement; ~~(2) have been designed and/or constructed by. The work of a previously unrecognized architect, design/builder or contractor may be found historically significant only when~~ if there is substantial, factual evidence that the architect, designer/builder or contractor contributed to one or more of the historic contexts³ of the City to an extent consistent with other architects, design/builders or contractors identified within the Historic Context Statement; (3) be a good example of an architectural style or type of construction recognized as significant in the Historic Context Statement; or (4) display a rare style or type for which special consideration should be given. ~~All such determinations shall be made by the Planning Commission based on recommendations from the Historic Preservation Board.~~

15. Delete policy P9-67 on page 46. ~~Properties that fail to meet the above-established criteria for inclusion in the Carmel Inventory shall not be treated as historic resources under this section or under provisions of the California Environmental Quality Act.~~

16. Revise policy P9-68 on page 46. Establish procedures for the Planning Commission, based on recommendations from the Historic Preservation Board, to add or remove historic resources from the Carmel Inventory based on substantial evidence. ~~incorrect evidence, invalid analysis, or loss of integrity of the identified historic resource.~~ An historic resource listed on the Carmel Inventory shall be presumed historically significant and shall not be removed unless a ~~preponderance of the~~ substantial evidence demonstrates that it is not an historic resource.

17. Revise policy P9-70 on page 47. Use the Carmel Inventory to identify historic resources for purposes of required coastal development permit and California Environmental Quality Act (CEQA) review of proposed projects. Historic resources on the Carmel Inventory shall have a presumption of significance pursuant to CEQA § 21084.1 and shall be treated as historical resources under CEQA and the Carmel LCP. Failure to include a property on the Carmel Inventory shall not preclude a future determination that it qualifies as an historic resource based on new evidence.

18. Change policy P9-79 on page 48 to a Goal and revise as follows: Protect and enhance historic resources. Ensure that City ordinances, development review processes and administrative policies support, facilitate and coordinate with preservation activities.

³ An historic context is a body of information about historic properties organized by theme, place and time. A single historic context describes one or more important aspects of the development of an area relating to its history, architecture, archaeology and culture. A context may be based on one or a series of events, patterns of community development, or associations with the lives of a person or group of persons that influenced the destiny and character of a place or region (from National Register Bulletin #24). Currently there are five themes developed in Carmel's Historic Context Statement. They are: (1) Prehistory and Hispanic Settlement, (2) Economic Development, (3) Government, Civic and Social Institutions (4) Architectural Development in Carmel and (5) Development of Art and Culture.



19. Change policy P9-80 on page 48 to an Objective and revise as follows: Incorporate historic preservation principles into the City's project review processes. Avoid and minimize potential impacts on historic resources through implementation and enforcement of when developing and enforcing land use, design review, zoning, building code, fire code, environmental review, and other City regulations.

20. Add new policy to page 48. Review all proposed demolition and substantial alteration projects for potential historic resource impacts. Resources older than 50 years shall be evaluated for historic significance by the Historic Resources Board, pursuant to the objectives and policies contained herein and corresponding implementing ordinances. Resources less than 50 years old may be recommended for historic evaluation at the discretion of the Planning Director.

21. Revise policy P9-81 on page 48. Implement Use the Secretary of the Interior's Standards and Guidelines as the standard of review for development projects affecting historic resources. The City shall retain qualified professionals to review proposed exterior changes to historic resources to determine whether they are consistent with the Secretary of Interior's Standards and Guidelines Standards, and to make recommendations, where necessary, to the Historic Resources Board.

22. Revise policy P9-82 on page 49. Prohibit the demolition of all historic resources and prohibit changes to historic resources that are inconsistent conflict with the Secretary of Interior's Standards and Guidelines unless it is determined through environmental and City Council review that rehabilitation of the resource is not feasible. there are no feasible alternatives. When completing environmental review of any project affecting an historic resource, require exploration of one or more alternative designs that would be consistent with the Secretary of the Interior's Standards and Guidelines Standards.

23. Revise policy P9-83 on page 49. Apply the Implement Design review guidelines to ensure preservation, protection, enhancement, rehabilitation, reconstruction, and perpetuation of existing structures of historic significance in a manner consistent with the character of the village. Such criteria shall include, but not be limited to, architectural design, size, scale, height, site coverage, spatial relationships, window, dormers, appurtenances, proportion and placement of improvements on the parcel, and landscaping, including planting or removal of vegetation.

24. Add new policy on page 46. Establish a Historic Preservation Board with powers and duties to administer the City's Historic Preservation Program. Establish requirements for Board members to demonstrate historic knowledge of Carmel, knowledge of history, architecture, archaeology, or past experience with preservation.

25. Add new Goal on page 50. Provide incentives for property owners to preserve and rehabilitate Historic Resources.

26. Add new policy on page 50. Pursue and support the use of appropriate federal,



state, local, and private grants, loans, tax credits, and tax relief. Develop or assist financial, technical, and legal assistance programs to encourage or assist with rehabilitation and maintenance. Participate in the State and Federal preservation process and programs. Make application to the State for becoming a Certified Local Government (CLG), which enables the City to receive technical training.

VISUAL/COMMUNITY CHARACTER

27. Add the following new goal to page 35: The incorporated City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area. New development shall protect this special community and its unique characteristics.

PREFERENTIAL PARKING

28. Revise policy P9-134 on page 68. Provide convenient and free public beach parking from 5:00 a.m. until ~~10:30 p.m.~~ 1:00 a.m. daily. Parking outside of these hours along Scenic Road ~~and the Del Mar parking lot~~ shall be limited to residents and guests with a resident's parking permit.

DEL MAR ROAD ABANDONMENT

29. Revise policy P9-101 on page 64. Abandonment of any segments of the Del Mar Avenue roadway shall include on-site mitigation to include provisions for public access. Mitigation shall consider installation of a ~~improve~~ pedestrian circulation path between the north end of the Beach Bluff Pathway at Eighth Avenue and the beach facilities at Ocean Avenue and the Del Mar Avenue parking lot, as part of the Del Mar and North Dunes Master Plan.

VISITOR-SERVING

30. Add the following new policy to page 70: Lower cost visitor and recreational facilities be protected and encouraged and where feasible, provided. Developments providing public recreational opportunities are preferred.

HAZARDS

31. Add Coastal Act Section 30253(1) and (2) into the list of relevant polices in the Coastal Resource Protection Section on page 75 of the LUP:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

32. Revise Coastal Resource Protection section background as follows:



- a) Pages 76-77: "Carmel, like..., appears to derives most of its sand..."
- b) Page 77, last paragraph: "If left unmanaged, the bluffs surrounding Carmel Bay would progressively erode from the impact of winter storm waves, and from surface drainage, and other steady and episodic erosion processes."
- c) Pages 77-78: "Erosion of Carmel's bluffs is quite variable along the shoreline and is includes both steady erosion and episodic events."
- d) Pages 78, second paragraph: Change the reference to Figure 9.7a to Figure 9.6.a.

33. The "Seawalls and Retaining Walls" bullet on page 78 shall be changed as follows:

"...Thus far, anecdotal evidence suggests that the accelerated loss of beach sand that is often associated with seawall construction does not generally appear to be occurring along Carmel Beach. This may partially be due to the unique natural sand transport process that is characteristic of the Carmel shoreline or it may partially be due to the City's annual sand redistribution that artificially moves beach sand from the lower beach to the upper beach to cover revetments and to restore access at the foot of Ocean Avenue. Recent studies, however, appear to contradict the long-held assumption that the beach is not retreating here. In fact, at least one recent study indicates that the beach has actually been decreasing in width since 1949.⁴ Further long-term study of beach levels is warranted to provide the best management for Carmel's beach...."

34. Replace LUP Figure 9.6a on page 83 with SMP Figure 8, and rename it as LUP Figure 9.6a.

35. Change title and legend of LUP Figure 9.6b on page 83 to "Sand Redistribution Sites."

36. Revise Policy P9-158 on page 98 as follows:

Obtain and maintain an accurate digitized map of the Carmel shoreline to develop the City's beach management and maintenance policies. Analyze historic beach trends using aerial photo analysis and other available tools. Update topographic information at least every 5 years and analyze shoreline changes to facilitate early identification of erosion hot spots, sand sediment losses/gains, migration of engineered revetments, and other long-term impacts.

37. Revise Policy P9-159 on page 98 as follows:

Place a series of permanent surveyed benchmarks inland of the bluffs running the length of Carmel Beach. The surveyed benchmarks shall be described in relation to National Geodetic Vertical Datum (NGVD) and identified through permanent

⁴ A recent article in the International Journal of Marine Geology reported that the beach width at Carmel Beach has narrowed noticeably in the last 40 years (C.D. Storlazzi, M.E. Field / Marine Geology 170 (2000) 289 – 316).



markers, benchmarks, survey position, written description, reference numbers, et cetera to allow measurements to be taken at the same location in order to compare information between years.

38. Revise Policy P9-161 on page 98 as follows:

Protect public access, Scenic Road, and the aesthetic character of the coast by maintaining existing seawalls and engineered revetments ~~and by installing new protective structures when warranted.~~ When any existing seawalls or revetments need to be replaced or substantially reconstructed, review seawall and revetment design alternatives, as well as other beach management strategies and determine the best balance among objectives for access, aesthetics and protection of coastal resources (biological, geological, and recreational). Protect the natural character and features of the Del Mar Dunes by prohibiting the construction of any new shoreline protective structures ~~unless required for public safety, access or habitat preservation.~~ For the beach and shoreline area south of Eighth Avenue, only consider the installation of new protective structures after careful review of alternatives and when found to be ~~warranted~~ required for protection of existing structures and access ~~amenities facilities~~ from erosion risks. Mitigate the impacts of shoreline protective structures on visual quality and beach dynamics using landscaping, sand management and prudent engineering.

39. Revise Policy P9-162 on page 99 as follows:

Construct new shoreline armoring in areas previously unprotected only when required to protect existing structures in danger of erosion ~~or wave action~~ and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Require any approved structures to include native landscaping (screening), be visually compatible with existing seawall designs, address drainage, incorporate visual mitigation, sand coverage for revetments, and golden granite facing for seawalls.

40. Add two new policies following P9-162 on page 99 as follows:

Modification of existing shoreline structures shall adhere to the same standards for establishing need, obtaining permits, as well as landscaping, visual impacts, drainage and design as new seawall projects.

Any project (including but not limited to repair, maintenance, expansion, modification, or replacement) involving the shoreline armoring structure that extends along the Carmel Beach bluff southeast from the mouth of Pescadero Creek shall require the facade to match City-maintained shoreline armoring structures located along the Carmel Beach bluff south of 8th Avenue.

41. Revise Policy P9-165 on page 99 as follows:

Evaluate the storm-water outfall system for purposes of reducing impacts to the beach environment. Develop plan and identify ~~Consider~~ options to ~~modify~~ consolidate and/or remove outfalls from the beach and replace or retrofit storm



drains with filters or treatment devices to reduce impacts on the shoreline environment.

42. Revise Policy P9-167 on page 99 as follows:

Prohibit any construction of substantial or permanent structures on the beach or within Carmel Bay except where required to protect existing structures in danger from erosion for public health, safety, access or maintenance. Require design review for any structure proposed and minimize conflict with the scenic and aesthetic character of the shoreline environs through such review.

43. Revise Policy P9-169 on page 100 as follows:

Prohibit the placement of loose rock on the beach except where such rock is placed as part of a revetment allowed to protect an existing structure in danger from erosion. When any part of a rock revetment migrates from an engineered structure reposition it to maintain engineering stability or remove it from the beach.

44. Revise Policy P9-170 on page 100 as follows:

Protect the flat area/tidal zone of the beach for recreational use and ~~to the extent feasible,~~ avoid shoreline protective structures that reduce the amount of beach area available for public recreation.

45. Add new policy following P9-170 on page 100 as follows:

Evaluate the potential to replace existing revetments with faced vertical seawalls or seawalls designed to mimic the natural bluff face, to reduce sandy beach area coverage and the need for sand bulldozing. All replacement structures must be found compatible with the area aesthetic without introducing seawalls of significant height. Where the bluffs are very high and a very tall seawall may be required, consider a series of stepped, vegetated tiers supported by walls.

46. Revise Objective O9-29 on page 100 as follows:

Explore alternatives ~~for to~~ maintaining the sand elevation at the foot of Ocean Avenue to ~~facilitate ensure~~ public access and to ~~C~~cover with sand all exposed engineered revetments along the length of Carmel Beach.

47. Revise Policy P9-171 on page 100 as follows:

Each spring inspect the volume of sand at locations along the backshore and determine if it is appropriate and timely to reestablish the sand to a higher elevation. The use of heavy equipment is authorized for redistributing beach sand to rebuild the dunes and cover revetments. Minimize impacts on beach encroachment and public access and protect public safety during this process.

48. Revise Policy P9-173 on page 101 as follows:

After each ~~ten~~five-year period of monitoring beach sand elevations (beginning at 2005), review all available data and make preliminary determinations regarding the



effects of seawall structures and sand redistribution activities. If the results of the City's beach monitoring program indicate that the beach has been losing sand over time warranted, investigate options for beach nourishment using offshore deposits or other sources that match Carmel Beach sand to replenish the beach and protect its width. The beach nourishment program shall at a minimum: 1) identify potential sources of beach quality sand; 2) include testing and screening for determining the acceptable quality and quantity of beach material; 3) identify placement locations; 4) establish placement methods and any restrictions on work timing or methods.

49. Revise Policy P9-174 on page 101 as follows:

Maintain Carmel Beach as a public recreational resource. If the results of the City's beach monitoring program ~~conclude~~ indicate that the beach has been losing sand over time, develop, implement, and then further monitor and evaluate a beach nourishment program to maintain or increase the available volume of sand.

50. Revise Policy P9-176 on page 101 as follows:

Where unavoidable, Mitigate or minimize and mitigate all impacts to both marine and terrestrial resources when performing sand redistribution.

51. Delete Appendix B, the Shoreline Management Plan, from LUP.

52. Add new heading and policy on page 97 as follows:

Hazards Prevention

New development shall minimize risks to life and property, assure stability and structural integrity over the life of the development, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

WATER POLICIES

53. Delete policy P9-36 on page 38: ~~Maintain priorities for water allocations based on the General Plan/Coastal Plan. Give highest consideration to residential uses, including residential lots of records, and to Municipal projects that serve the broader community over other types of uses in the event water supplies are too limited to serve all forms of potential development.~~

54. Replace policy P9-36 with new policy on page 40: Available water shall remain allocated to existing priority uses, including coastal dependent uses, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses.

55. Revise policy P9-43: Establish priorities for ongoing water use in the event that further reduction of water consumption is required (e.g. during droughts or State-ordered cutbacks). ~~Give highest priority to residential uses and essential services.~~



56. Delete policy P9-42: ~~Analyze the potential net increase in water demand that may be generated by any proposed change and/or intensification in land use. Prohibit the approval of any development application if water for the proposed type of project is unavailable within the allocation.~~

57. Add new policy on page 41: Applications for new development shall demonstrate an adequate public (i.e., publicly-managed) water supply (e.g., the Cal-Am / MPWMD system) to support the proposed development. Private water supplies are prohibited to serve existing and new development.

Applications for new development shall not be filed without a City determination that (1) no new water is required to serve the new development; or (2) there is unallocated water available in the City's allocation from the Monterey Peninsula Water Management District to support the new development. This determination shall include an evaluation of the proposed development's water demand, based on MPWMD's water unit value system. All water transfers and corresponding retirements, if any, shall be described and agreed to prior to any City determination.

Prior to the commencement of construction of new development, evidence of water service, in the form of a water use permit from the Monterey Peninsula Water Management District, shall be provided to the City Planning Department.

58. Add new policy on page 41: Public desalination facilities may be permitted provided that its capacity does not exceed demand for additional water (or replacement water, where the source of the water replaced will no longer be used) based on planned build-out and MPWMD's water use formulas and all adverse environmental impacts are fully mitigated.

59. Revise policy P9-40 on page 41: Use appropriate vegetation for all public right-of-ways. Require drought-tolerant plants for at least 75% of the commercial and residential landscaping on each development site. ~~Encourage~~ Require the use of native plants in all landscapes plans for new development.

WATER QUALITY

60. Revise Policy P9-348 on page 125. Provide development guidelines and permit conditions which: Limit impervious surfaces and the connection of multiple impervious surfaces; implement simple infiltration techniques throughout drainage areas to efficiently manage storm water; infiltrate runoff into the soil, retain runoff for slower release and convey runoff slowly through vegetation; employ treatment controls to capture and treat the polluted runoff before it enters the city's storm drain system or receiving waters; design structural BMPs to meet the 85th percentile storm event and assure in-compliance with the NPDES Phase II permit.



61. Revise Policy P9-356 on page 126. Post-construction structural BMP's should be designed to treat, infiltrate, ~~or~~ and filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMP's and/or the 85th percentile 1-hour storm event for flow-based BMP's. ~~per the requirements of the City's NPDES permit.~~

ESHA

62. Revise cited policies P9-218 , P9-220 in Appendix D Forest Management Plan to be consistent with policy P9-218 in the Coastal Resources chapter as follows:

P9-218 Permit the ~~Forest, Parks and Beach Director~~ City Forester to act on requests for the removal and pruning of all trees growing on public and private property.

P9-220 Permit the ~~Forest, Parks and Beach Director~~ City Forester to apply special procedures for tree removal and pruning during emergencies.

63. Add a note to the Table of Contents of Appendix D: Forest Management Plan:
A. Municipal Code*

*: Note these citations to the Municipal Code are illustrative of the Code in effect prior to certification of the Coastal Implementation Plan by the Coastal Commission. Please consult the certified portions of the Municipal Code for the current regulations.

III. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Background: History of the Local Coastal Program

The City of Carmel-by-the-Sea is located on the Monterey Peninsula and is entirely within the Coastal Zone. It is relatively small (1 square mile approximately) and has a population of roughly 4,500. The City fronts on Carmel Bay and has a world-renown white sandy beach running along its entire, approximate one and one-half mile length. The City also has a unique community character that is described in detail in the next finding.

Carmel first commenced work on its local coastal program in 1978. The first land use plan was submitted in early 1980 and denied by the Regional Coastal Commission on April 14, 1980. The City Council revised the Land Use Plan and resubmitted it on November 26, 1980 with amendments on January 5 and February 2, 1981. The Coastal Commission certified the LUP as submitted in part and denied then certified with suggested modifications in part (private Beachfront area), on April 1, 1981. Again, the City chose not to accept the modifications and to resubmit a new Land Use Plan. This



second resubmitted plan was denied and certified with suggested modifications regarding demolitions and historic buildings on April 27, 1984. The City did not accept the suggested modifications. There was a hiatus in work on the local coastal program until 1988 when a new draft was only partially completed, then sidetracked. In the 1990s several documents were prepared on specific topics that have been incorporated as Land Use Plan appendices. Work on the text of the three Land Use Plan chapters recommenced in earnest in 2000, in part funded by a Coastal Commission grant. These three chapters are based largely on the City's General Plan, which had been amend over the years. The resulting third re-submittal, consisting of an introduction, the three chapters, and six appendices, is quite different from its early 1980 predecessors.

The document was delivered to the Coastal Commission on December 20, 2001, but could not be filed because not all of the required supporting information was received. In the intervening period City and Commission staff have worked closely on modifications to the City submittal. On November 12, 2002 the City Council amended its submittal to incorporate numerous mutually-agreeable modifications. This amended land use plan re-submittal was filed on November 15, 2002. The City has also resubmitted a Coastal Implementation Plan that has not yet been filed.

The standard of review of the land use plan is Chapter 3 policies of the California Coastal Act. The following findings briefly describe the re-submittal in terms of its conformance to Coastal Act policy groups and then support the suggested recommendations.

B. Community Character/Visual Coastal Act Provisions

One of the primary objectives of the Coastal Act is the protection of scenic and visual resources, particularly as viewed from public places. Section 30251 requires that development be sited and designed to protect views to and along the ocean and other scenic coastal areas. New development must minimize the alteration of natural landforms. This policy also requires that development is sited and designed to be visually compatible with the character of surrounding areas. Where feasible, development shall include measures to restore and enhance visual quality in visually degraded areas.

Another objective is to protect the character of special communities. Section 30253(5) requires that development protect special communities which because of their unique character are popular visitor destinations for recreational uses.

Coastal Act Policies:

Section 30251 of the Coastal Act states:



The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253 of the Coastal Act states:

New development shall...(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Introduction/Background

It is often stated that Carmel, along with such other distinct communities as the town of Mendocino, is one of the special communities for which Coastal Act section 30253(5) was written. Carmel is a very popular visitor destination, known as much for the style, scale, and rich history of its residential, commercial, and civic architecture, as for its renowned shopping area, forest canopy and white sand beach. As a primarily residential community, the web of residential development in Carmel plays a key role in defining the special character of the City, as various architectural styles reflect the historical influences that have existed over time. Carmel is distinctly recognized for its many small, well-crafted cottages, informal streetscapes, and forested landscape. These modest, sometimes quaint residences are associated with the era in which Carmel was known for its resident artists and writers, and functioned as a retreat for university professors and other notables. Homes were nestled into the native Monterey pine/Coast live oak forest, on a grid of streets that yielded to trees more than to engineering expediency.

Early development was greatly influenced by the Arts and Crafts movement, which stressed the use of simple designs and natural materials—quite unlike the extravagantly detailed architecture of the earlier Victorian period. Several European Revival styles became popular in the 1920's and 1930's. The introduction of more modern styles followed post-WWII. Many of Carmel-by-the-Sea's small cottages exhibit



fine craftsmanship as seen in the varied architecture of Carmel. Local builders embellished their work with detailing and individual style creating a unique and appealing building design. Underlying this architectural diversity, are environmental influences (i.e., trees, topography, exposure to sunlight) and patterns of scale and form that consistently reappear to establish Carmel's character.

Historically, most buildings in Carmel had simple forms and were relatively small in scale in relation to the size of their lots and natural surroundings. As reported in the City's Design Traditions project and confirmed in the Commission's analysis of coastal development permit data, homes were small, one to one and one-half stories, averaging approximately 800 square feet to 1,500 square feet. Constructed primarily of wood, most had siding of shingle, vertical board and batten or horizontal clapboard. Roofs were gabled and covered in shingles. Many could be considered vernacular rustic cabins, while others exhibit stylistic influences of the Craftsman movement. The established character of Carmel can be described by the following:

Architecture	Variety of Craftsman-styled cottages.
Size	Smaller structures averaging approximately 1,200 sq ft on 4,000 sq ft lots.
Scale	Small in relation to lot size and natural environment.
Height	Single-story cottages often less than 18 feet.
Setbacks	Generous setbacks often exceeding minimum allowance.
Sensitivity	Small cottages often well screened from streetscape.
Streetscape	Informal meandering roads, unimproved rights-of-way often supporting trees and other vegetation.
Natural Environment	Monterey pine and Coast live oak dominated forest.
Land Use	Primarily residential with a strong commercial core, several public parks including 22 acre white sand beach and recreational blufftop path.

This is the context for Carmel's community life and its built character.

1. Character Resources

Consistency with the Coastal Act



There are several components that together make up Carmel's community character, including the assortment of small eclectic cottages built in the early 20th century. This aspect of community character can be further broken into two related types of resources: Character Resources and Historic Resources. Character Resources are homes that do not meet National or State Register criteria for historic resources, but nonetheless embody attributes identified in Carmel's Design Traditions project as strongly contributing to the City's established character. It is the cumulative loss of these "character resources" that is contributing to the overall sense of loss of Carmel's community character. The issue has come to the forefront of Commission concern in recent years because: 1) the special character of this residential coastal community is considered a unique asset of statewide and national significance, and 2) the volume of requests for coastal development permits which affect community character is substantial. This issue was also identified in local public workshops as one of the primary concerns affecting the community at this time. As a result, the City dedicated the first chapter of the LUP to addressing the issue of community character and its many components.

Much of the background text in the submitted LUP document (pp. 7 –13) is dedicated to describing the natural setting, subdivision patterns, layout of public roads, arrival of Bohemians, and early architectural influences. It generally describes the turn-of-the-century cottages as simple, modest homes set amidst a forest landscape. Recognizing that some amount of development or re-development of these small cottages will be necessary, the LUP maps a two-prong strategy for dealing with historic resources and structures that are not historic (i.e., character resources). Character resources will be handled through a process of *conservation*, that allows for new development and/or re-development as long as it is consistent with the established character of the neighborhood. On page 22 of the Land Use Plan it states:

The City implements conservation of its character through its Design Guidelines for the residential district, the commercial district, and for the public way. The overall character of the City can be conserved through appropriate policies related to the urbanized forest, roadway design and building design.

The policies, goals, and objectives, directing development, and re-development of Carmel's aging stock of residential homes are stated on pages 35-38 of the re-submitted Land Use Plan. The submitted LUP provides an adequate amount of policies protecting the existing land use and subdivision patterns in the residential and commercial districts. The first 12 policies are dedicated to maintaining the status quo in this area. The next 10 policies fall under the heading of Residential Development and mostly establish a process for evaluating development. However, there is very little policy devoted to specifically identifying and protecting community character. Thus, as submitted, the City's LUP policies do not adequately identify the elements of character or provide enough specificity to protect the residential character of this special community. Specificity is important precisely because of the many factors that intertwine to define community character. Objectives and design principles that are also



well articulated will provide the necessary context to both the development community and the Coastal Commission that new development is protecting community character.

During the course of developing its Design Guidelines, the City's Design Traditions Project identified all of the elements of the established character in Carmel. Suggested recommendations and policies were developed to preserve and maintain those qualities. Many of those recommendations, though, did not carryover into LUP policies and/or current zoning standards. The LUP states that its conservation efforts are implemented through the [Residential] Design Guidelines. However, to be effective, it is important that clear guidelines be *in* the LUP. In the past several years, the Commission has reviewed numerous residential demolitions and rebuild proposals that illustrate the cumulative changes occurring in Carmel. In general these include:

- 1) Small cottages, usually 1,200 square feet or less, are being supplanted by 1,800 square foot homes, the maximum allowed by current zoning standards.
- 2) One-story structures are often replaced with two-story structures.
- 3) Mass, site coverage, and height are increasing substantially.
- 4) Open space, setbacks, and forest resources are decreasing.

The City has developed a strong set of Residential Design Guidelines that capture the important aspects of Carmel's character. The conservation of character resources could be achieved if the City's Design Guidelines were made to more meaningfully thus apply. One way to achieve this is to capture the essence of the policies and recommendations taken from the Guidelines and place them into the Land Use Plan. The City's Residential Design Guidelines more specifically address the treatment of size, massing, coverage, open space, streetscapes, and the forest landscape than the City's LUP submittal. Primary consideration is given to compatibility with the design traditions of Carmel, maintaining the urban forest character, promoting buildings that are in scale with that context, while encouraging diversity in design. The Commission recommends that the LUP be modified to incorporate various Design Guidelines, while still allowing for discretion by planners in building design.

Other aspects of character not addressed by the re-submitted LUP are the standards for floor area ratio and site coverage. The increase in floor area allowed by the City's current zoning standards has slowly been eroding the small scale aspect of character, as the City's older housing and commercial stock is demolished to make way for new, usually larger in size and scale, developments. According to the Commission's permit tracking database, approximately 170 projects involving demolition have received coastal development permit authorization in Carmel since 1973. Of those, 23 CDP's were issued before 1990. Since 1990, roughly 13 residentially related demolition project applications per year have been received; nearly all of these have been approved. Other than the three-year period from 1992 – 1994 when a total of 13 applications were received, the number of development proposals in Carmel had been rising fairly steadily

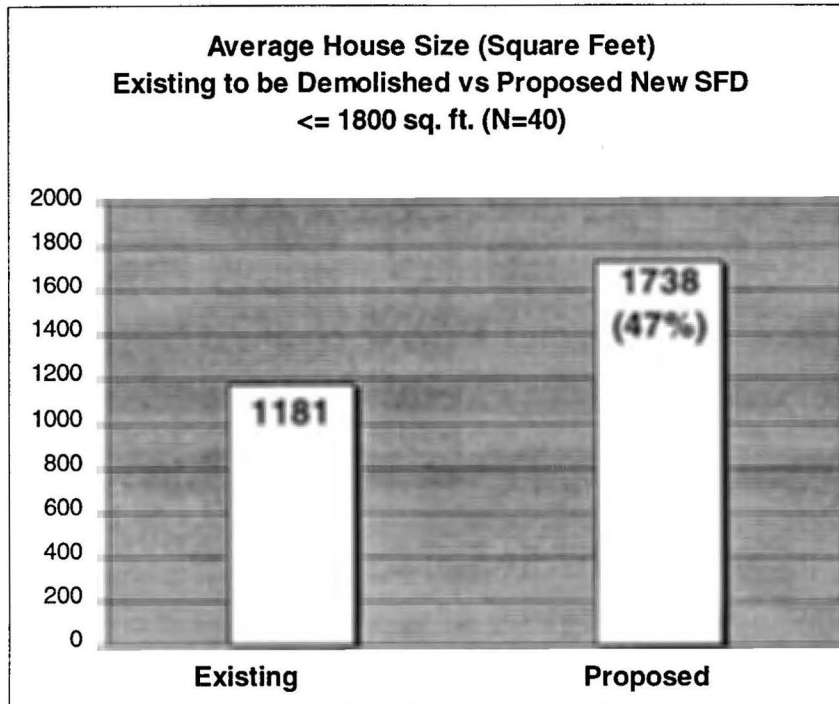


until 2000. However, in the year 2000 alone, the Commission received 44 applications; a full quarter of all applications received by the Commission for development in Carmel in the last decade. Of these 44 applications received in the year 2000, 33 of these involved some form of demolition, rebuilding and/or substantial alteration of residential structures. In 2001, 24 applications were received; 16 of these involved residential demolitions/alterations. Thus far in 2002, 17 applications have been received; 12 of these involve residential demolitions/alterations. Clearly the trend for demolition/rebuild/substantial remodel has been magnified in current years as demand for Carmel properties has outstripped the limited supply represented by the approximately 3,200 parcels within the boundaries of this small town. As this trend has continued, it has become increasingly difficult to conclude that the demolition of residential structures is not significantly changing the unique character of Carmel.

Staff recently evaluated a sample of these projects (40 projects), which revealed that the average size of the small cottages to be demolished was approximately 1,180 square feet, whereas the replacement structures approved were just under 1,740 square feet on average –a 47% increase in size (See Figure 1). Staff also found from the sample that nearly 60% of the residential demolition and rebuilds involved the replacement of a one-story structure with a two-story structure. This data analysis is consistent with the results of the City of Carmel's own Design Traditions project released in October 1997. That project evaluated the recent development trends in the City from January 1990 to May 1997 and found that 1,192 building permits were issued for development in the residential district during that time. This represents roughly 180 permits per year. Of those 1,192 building permits issued, only 242 (20%) received design review; 950 did not. The report did not specifically break down by type of development the 950 building permits issued without the benefit of design review, however it did note that the permits were issued for alterations, repairs, and remodels. Of those receiving design review, 128 involved substantial alterations, 49 involved demolitions with a single replacement home, 14 involved demolition with two or more replacement homes, and 39 involved new construction on vacant lots. The vast majority of those projects other than substantial alteration were for new two-story homes. 88% or 90 out of 102 new homes were two-story. The Design Traditions project also found that the established pattern of development was of larger homes on larger lots and smaller homes on small lots. Historically, given the common sized 4,000 square foot parcel, on average houses ranged in size between 800 and 1,500 square feet.



Figure 1. Carmel, Changes in House Size

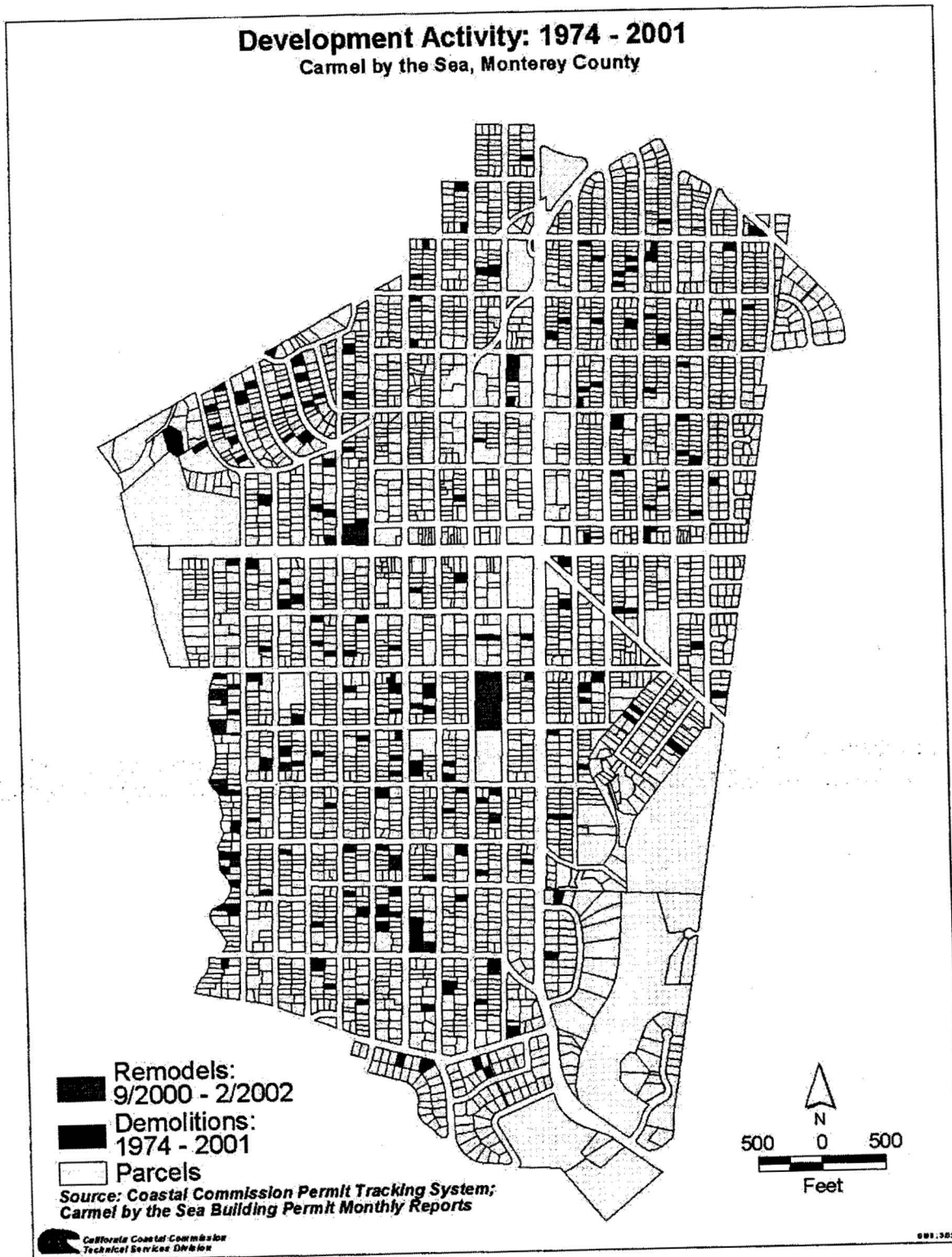


Since mid-1997, the City has continued to experience unprecedented development activity during one of the most prolific economic expansions in modern times. Staff evaluated building permits issued by the City during one 18 month period at the height of the boom (i.e., 9/2000 – 2/2002) and discovered that more than 80 substantial alterations and remodel permits were issued; 55 of those involved development in excess of \$50,000. Though not technically considered demolitions (according to the City's current definition), these types of construction activities have significantly altered the character of existing structures and neighborhoods, but have been excluded from the coastal development permit review process. Please see Figure 2.

Figure 2 illustrates the scope and magnitude of the development activity occurring in Carmel. Of the approximately 170 demolition permits issued by the Commission, only 128 are represented on the figure. Additionally, as noted above, the data from the City building permits monthly reports are from one 18-month period.



Figure 2: Development Activity: 1974 - 2001



This information shows that a significant number of smaller cottages have been demolished or altered or remodeled in a relatively short period of time. Furthermore, the replacement homes and substantial remodels are resulting in larger floor area, mass, and site coverage. The streetscapes and spatial relationships are changing, the forest prominence as a defining character element is declining, open space is disappearing, and more traditional architectural styles are being supplanted by modern eclecticism. There are also as yet unmeasured impacts on the watershed functions of the forest including absorption and conveyance of storm water and filtration of pollutants. Considering the trend of demolition, substantial alteration, and remodel over the past 10 years, it is becoming evident that this development activity is having a significant cumulative adverse impact on the unique character of Carmel and the LUP, as submitted, does not adequately address this trend. As such, it is inconsistent with section 30253 of the Coastal Act.

Modifications

As discussed above, policies addressing the treatment of size, mass, coverage, open space, streetscapes and the forest landscape are critical to maintaining and preserving community character in Carmel. The re-submitted land use plan policies does not fully encapsulate each of these character elements nor is it specific enough to ensure that they would be preserved. Thus, the Commission recommends the following modifications, adapted from the City's Design Guidelines be incorporated into the submitted Land Use Plan:

Modification 1 New residential development shall maintain Carmel's enduring design principles of variety, modesty, and simplicity, and shall draw from and contribute to its neighborhood by generously providing for open space and preserving the City's traditions of simple homes set amidst a forest landscape.

Modification 2 New residential development shall be similar in size, scale, and form to buildings in the immediate block and neighborhood. Minimize the mass of building as seen from the public way or adjacent properties. Require building mass of new development to relate to the context of other homes in the vicinity. Larger building masses should be divided into forms that are similar in scale to houses seen in the immediate neighborhood.

Modification 3 Require preparation of a preliminary site assessment that includes assessing the block and neighborhood as well as the resource constraints of the site prior to submittal of design plans for new development or projects that will alter the building footprint, add a second story or involve excavation. A site plan shall be prepared by a qualified professional and illustrate topography, drainage features, existing trees and structures, street edge, and existing conditions on immediately adjacent properties. Require a Forest Enhancement and Maintenance Plan during the site assessment. The Plan shall address the impacts of the proposed development on the existing forest



conditions of the site. Site plan designs shall recognize the constraints of the land and work within these limitations. Minimize the extent of excavation and fill on a site; new development shall follow the natural contours of the site.

Modification 4 Maintain and enhance the informal, vegetated, open space character of the City's right-of-way. Trees in the right-of-way shall not be removed to provide parking. With the exception of driveways, new paving in the right-of-way is prohibited.

Modification 5 Prohibit the removal of significant trees (i.e., greater than 12" dbh) unless it would prevent a reasonable economic use of the site or pose a threat to health and safety. Locate buildings and other site structures to avoid removal and pruning and otherwise minimize damage to existing significant trees. Avoid impacts to trees by avoiding/minimizing impacts to the root protection zone (i.e., within the drip-line). Establish continuity of landscape elements throughout each neighborhood. Replace trees removed for construction with several saplings. Require that they be nurtured until well established.

In order to effectively implement the Design Guideline standards, the Commission is recommending that all approved projects meet the following standard:

Modification 6 All demolitions, remodels, and substantial alterations shall be consistent with the following findings:

- The design uses simple/modest building forms and roof plans, and a restrained employment of offsets and appendages consistent with neighborhood character.
- Mass of the building relates to the context of other homes in the vicinity.
- The development is similar in size, scale, and form to buildings on the immediate block and neighborhood.
- The development does not require removal of any significant trees (> 12" dbh) unless necessary to provide a viable economic use or protect public health and safety. All development will be setback a minimum of 6 feet from significant trees.
- The development will not lead to an increase in water use.

Additionally, in an earlier section of this report, it was demonstrated that the current zoning standards for floor area ratio and site coverage were contributing to the erosion of community character through the approval of larger homes relative to the established



size and scale of Carmel's small cottages. The current standards allow 1,800 square feet of floor area on single 4,000 square foot lots. This is roughly 50% greater in size than the average existing cottage and has resulted in adverse effects on site coverage, setbacks, massing, and the urban forest. Site coverage for a single-story residence including patios, driveways, and walks could exceed 60% of a 4,000 square foot lot. At this size, homes no longer are subordinate to the natural environment but rather they become the dominant feature of the site, often overriding other features such as trees and topography.

To remedy this, the Commission is recommending that the above grade floor area ratio be reduced to 1,600 square feet on 4,000 square foot lots and structural coverage limited to 40% of the site. Other site coverage (i.e., non-structural) would remain at 10% for a 4,000 square foot lot. This allows for a reasonable amount of re-development without significant adverse impacts. The proposed above-grade FAR is roughly one-third greater than the average established size of existing cottages and represents about an 11% reduction in the current floor area standard. Limiting above-grade floor area will increase the amount of open space on these small lots by 200 square feet, providing extra room for trees and other vegetation while avoiding the extra mass associated with the larger home. There will be fewer impacts to the streetscape and less pressure on adjacent small cottages to re-develop. New homes could, of course, be greater than 1,600 square feet with the inclusion of some basement floor area, though this would be allowed only if the proposed design met all the other criteria identified in the LUP (e.g., preservation of trees, etc). There is also a precedent for limiting floor area to 1,600 square feet. Categorical Exclusion Order E-77-13 under which the City currently operates, excludes from the permit requirements of the Coastal Act construction of residential homes in Carmel 1,600 square feet or less. The Commission found at the time of the adoption of the order that development of single-family residents 1,600 square feet or less would not result in any significant adverse impacts. Overall, to achieve consistency with section 30253, the Commission recommends the following modification to the City's submitted LUP document:

Modification 7 Limit above grade floor area on single lots (i.e, 4,000 square feet) to a maximum of 1,600 square feet. Projects with less above grade square footage shall be preferred. Structural coverage shall not exceed 40% of the site. Total site coverage (structural and other impervious coverage) on 4,000 square foot lots shall not exceed 50% of the site. Locate open space so that it visually links with adjacent properties.

Thus, with the above required modifications, the Commission finds that the LUP Community Character policies are consistent with section 30253 of the Coastal Act.



2. Historic Resources

Background

Central to the issue of protection of community character in Carmel is the treatment of historical resources. A large part of the community character debate has centered on the loss of potentially historical homes via demolition and redevelopment. Historical resources, like the character cottages described above, embody the attributes and design traditions recognized in the City's Design Traditions Project as providing "character" to the community. However, historical resources are further distinguished from their character resource counterparts for their contribution to the broad patterns of local history. In California, criteria established in the California Register of Historic Resources typically are used to determine historical significance. The criteria for historical significance ranges from architecturally significant historic buildings, to representing the work of a master builder, or to being associated with important persons or events in Carmel's history. It also includes street features, landscaping, and both prehistoric and historic archaeological resources. The City has identified and adopted a Historic Context Statement (See Appendix F) that provides additional context for establishing historic significance under local criteria.

Historic preservation is a growing concern nationwide as redevelopment of our aging cities and towns intensifies. In Carmel, a rapid escalation in the value of property has led to an unprecedented amount of acquisitions of existing small cottages and requests for permits to demolish and redevelop the lots with larger modern homes. This has triggered a vociferous response by members of the community to convince the City to establish and implement a historic preservation program to protect historic resources from being demolished and guide future redevelopment of non-historic resources in a manner that is consistent with the established character of the community. In large part, this single issue is driving the City's most recent effort at LCP certification. The City of Carmel has responded by submitting a program for preserving historic resources. The policies implementing this program are presented on pages 44 – 49 of the resubmitted Land Use Plan.

Carmel LUP as Submitted

The City's amended LUP submittal includes a variety of important policies to promote the identification and preservation of historic resources. This includes establishing procedures for identifying historic resources, updating the City's Historic Context Statement, educating the public about historic preservation, applying the Secretary of Interior Standards and Guidelines to proposed modifications of historic resources, ensuring rehabilitation of historic resources is consistent with the character of the City and so forth.



Coastal Act Consistency

The Commission recognizes that the loss of the City's historic cottages has the potential to adversely impact community character and thus the recreational opportunities represented by them. Coastal Act section 30253(5) requires that special communities such as Carmel be protected against the erosion of its character through policies that guide development and redevelopment in a manner consistent with the established character of the village.

In particular, demolition and/or substantial alteration of existing historic homes and cottages result in the loss of the unique character, which they individually represent and which cumulatively, form an important part of Carmel's character. Once a house has been modified, its character is forever changed –replaced by something that may or may not be consistent with the established character of the block, neighborhood, or City. As discussed in the Character Resources section above, the volume of requests for demolitions in recent years has increased substantially, leading to concerns that the character of the community may be slipping away.

As briefly summarized above, Carmel's resubmitted LUP contains a comprehensive set of historic resource policies design to promote the identification and preservation of historic resources including buildings, structures, objects, sites, districts, and archaeological resources (discussed in section 4 below). The primary objectives of the historic preservation element (policies) are:

- Identify and preserve historic resources;
- Incorporate historic preservation principles into the City's design review process

Although, the policies in the resubmitted LUP provide an initial framework for establishing a historic preservation program, they do not adequately achieve the objectives identified above consistent with 30253 of the Coastal Act. Modifications necessary to bring the historic resources element into conformity with 30253 are discussed below.

Modifications

As discussed above, identification and preservation of historic resources is critical to maintaining and protecting community character in Carmel. The City has submitted a historic preservation element that provides general guidance but it is inadequate to carry out the specific requirements of the historic preservation program.

Specifically, the City's submittal is silent on the creation of a Historic Preservation Board that performs the ministerial functions of the historic preservation program. Though



there is reference to the Board in the policies (and the submitted IP contains some detail on the HPB), there is no policy requiring its creation or establishing qualifications for its members. Modification 24 requires the establishment of the Historical Preservation Board. This is important to acknowledge and provide for the heightened review of historic resource issues (Modification 21) by a specialized review body.

Over the course of the past twenty years, a number of historic resource surveys have been prepared and resulted in the compilation of an inventory of potential historic resources. These "lists" have been used by the City of Carmel from time to time to assist planners and city officials in making decisions. These inventories were created by registered Architectural Historians, which evaluated the structures for local historic resource significance. Although, there is still some debate as to the validity and current status of the inventories, they do provide additional context for the City and newly created Historic Resources Board in determining historical significance. Modification 10 requires that all resources previously surveyed and evaluated that meet the criteria for historical significance be incorporated/consolidated with the newly created Carmel Inventory of Historic Resources.

The resubmitted LUP requires that the City's Historic Context Statement be updated periodically. The vintage Statement was developed in 1997. Since that time, at least one partial reconnaissance survey of the City has been performed potentially identifying additional context for Carmel's established character. Modification 11 requires that the Context Statement be updated every 5 years to keep pace with changes and to assure that those updates are submitted as LUP amendments.

P9-64 of the resubmitted LUP established the procedures for determining the Integrity of a potential historic resource and includes employing the original building plans or early photographs. There are other materials available to assist in the determination of Integrity including literature reviews, architectural files, land records, Sanborn maps, etc. Modification 13 broadens the scope of materials to be used in making this determination. Additionally, modification 13 clarifies that a physical inspection be conducted by a qualified historic preservation professional.

To qualify as a historical resource under criteria 3 of the California Register of Historic Resources, a structure must "embody the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values." P9-65, as submitted, places additional restrictions on meeting these criteria. In the field of Historic Preservation the criteria for determining the significance of a resource are based in such factors as association with historical events, association with significant persons, embodiment of distinctive types, historic periods, and methods of construction, etc. The California Register, which is managed by the State Office of Historic Preservation, has encapsulated these into four criteria for historic significance: resources that (1) are associated with events that have made a significant contribution to broad patterns of local or regional history or the cultural heritage of California or the United States; or (2) are associated with the lives of



persons important to local, California or national history; or (3) embody the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values; or (4) has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.

As submitted the Carmel LUP adequately addresses some of these criteria, particularly in its grounding of their interpretation in the adopted Historic Context Statement. However, the City's submittal inappropriately limits the application of category 3, above, by asking that a higher degree of integrity be shown. The LUP already provides that integrity be shown for any resource to be considered historic and there is no good basis for requiring a higher standard for category 3 as distinct from the other categories. In addition, and related, there is insufficient attention in the LUP to the significance criteria for category 3, above. Although it is appropriate to further elaborate on what types of resources may be considered significant under the general category 3 language, Modification 14 further clarifies that resources may be significant if they embody distinctive characteristics in such a way as to be a good example of these characteristics as reflected in the Context Statement for Carmel. Thus, the degree to which a structure represents the characteristics important to any particular historic context is an important and well-accepted criteria for historic significance. Indeed, in a community such as Carmel, where the character is defined by the cumulative look and feel of the built environment, particularly concerning particularly periods, types, and styles of architecture, it is important to recognize the role that category 3 plays in defining this cumulative community character. Finally, as already acknowledged by the City's LUP, structures that are rare are important to acknowledge, and should qualify for listing under category 3.

The Commission recommends deleting P9-67 (Modification 15) because it is not necessary for the LCP, particularly in light of other policies that address identification of historic resources. It also addresses CEQA review, which is not appropriate in the LUP.

A minor modification (Modification 16) to P9-68 is needed to clarify the intent of this policy.

Similarly policy P9-70 was modified to recognize the statutory requirements of the Coastal Act for issuance of a coastal development permit and to recognize the City's LCP as the standard of review for development that affect historic resources. (Modification 17).

Policy P9-79 was changed from a policy to an overriding goal of the element and revised to restate the purpose of the City's mission. "Protect and enhance historic resources. Ensure that City ordinances, development review policies...." (Modification 18)

Similarly, policy P9-80 of the submitted LUP was changed from a policy to an objective of the program. A small revision was made to clarify the intent of the program



consistent with section 30253 of the Coastal Act. (Modification 19)

As noted in the background and coastal act consistency sections above, the loss of character has been facilitated by approvals of demolitions and substantial alterations over the years. The LUP submittal does not include a policy requiring that these types of development be reviewed for potential impacts to historic resources. Modification 22 requires review of all demolition and substantial alterations for impacts to historic resources. Additionally, modification 20 requires all buildings older than 50 years to be evaluated for historical significance as required by the California Register of Historic Resources.

Finally, one aspect of a successful historic preservation program are the incentives granted to homeowners to preserve and maintain their resources. The current submittal of the LUP is silent on establishing incentives to promote historic preservation. Modification 25 is a new goal establishing historic preservation incentives. Modification 26 is a new policy outlining the various incentives available to homeowners for historic preservation.

With Modifications 9 - 26, the Commission finds that the LUP historic resource policies are consistent with Coastal Act section 30253(5).

3. Scenic Resources

Carmel is one of those special communities for which Coastal Act section 30253 was written. Though much is made of the eclectic cottages in the forest and brilliant white sand beach, world-renowned shopping, proximity to Pebble Beach and gateway to Big Sur, the LUP does not designate Carmel a "special community" worthy of protection. Modification 27 acknowledges the significance of City's unique character and designates Carmel a special community and highly scenic area.

Other than the need to protect character by through implementation of land use and landscape policies, the scenic views and resources of Carmel's beach, parks, and open space are adequately protected in the LUP. The re-submitted LUP proposes the adoption of policies that would impose an 18-foot height limit on houses that front North San Antonio and Scenic Drive (P9-18). Additionally, the City's tree and vegetation maintenance program policies require regular pruning to protect views to and along the coast as seen from Scenic Road and the blufftop path (P9-188). New development along Scenic Road, Junipero Avenue, and Torres Street at 3rd Avenue is required to protect the unique scenic quality and public views, minimize landform alteration, and be visually compatible with the character of surrounding areas (P9-201). The LUP also contains a general policy to preserve and protect areas, which due to their outstanding aesthetic quality, historical value, wildlife habitats or scenic viewsheds, should be maintained in permanent open space (P9-199). As such the resubmitted LUP policies are adequate to carry out the intent of Coastal Act section 30251.



4. Archaeology

This aspect of community character has likewise been adequately addressed in the City's LUP policies. The plan calls for the creation of an archaeological overlay district and standard reporting format for all archaeological documentation (P9-86). All development within the overlay is required to perform a phase 1 study to determine if significant archaeological resources are present (P9-87). If sensitive resources are found on a site, all available measures to avoid development shall be pursued (P9-88). The remaining policies require mitigation for impacts incurred during construction, monitoring, safe retrieval, collection and archiving, or preserving in-situ of all identified archaeological resources. All archaeological resource reports are to be transmitted to the Northwest Information Center as designated by the State Office of Historic Preservation (P9-89, 90, 91). As submitted, the archaeological resource protection measures and policies in the re-submitted Land Use Plan are consistent with Coastal Act Section 30244 for the protection of archaeological resources.

C. Public Access and Recreation Coastal Act Provisions

A broad policy goal of California's Coastal Management Program is to maximize the provision of coastal access and recreation consistent with the protection of public rights, private property rights, and coastal resources as required by the California Constitution and provided in Section 30210 of the Coastal Act. Several additional policies contained in the Coastal Act, which are incorporated into the Land Use Plan, work to meet this objective. The Coastal Act requires that development not interfere with the public right of access to the sea (Section 30211); provides for public access in new development projects with limited exceptions (Section 30212); distributes access to mitigate against overcrowding (Section 30212.5); encourages the provision of lower cost visitor and recreational facilities (Section 30213); addresses the need to regulate the time, place, and manner of public access (30214); specifies the need to protect ocean front land suitable for recreational use (Section 30221); gives priority to the use of land suitable for visitor-serving recreational facilities over certain other uses (Section 30222); and requires the protection of upland areas to support coastal recreation, where feasible (Section 30223).

Coastal Act Policies

Section 30210 of the Coastal Act states that:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.



The Coastal Act also requires that development not interfere with the public right of access to the sea in Section 30211:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act provides for public access in new development projects with limited exceptions and provides for the distribution of parking over a wide area in Section 30212.5:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.



(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

In addition, the Coastal Act encourages the provision of lower cost visitor and recreational facilities in Section 30213:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The Commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30214 of the Coastal Act addresses the need to regulate the time, place, and manner of public access:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.



(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

The Coastal Act specifies the need to protect ocean front land suitable for recreational use in Sections 30220 and 30221:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

The Coastal Act also gives priority to the use of land suitable for visitor-serving recreational facilities over certain other uses in Section 30222:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.



Section 30223 requires the protection of upland areas to support coastal recreation, where feasible:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Finally, the Coastal Act also facilitates public access by providing for public transit, alternative means of circulation and adequate parking in new development in Section 30252:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Introduction/Background

The beach at Carmel-by-the-Sea is a popular tourist destination for visitors from foreign countries, all 50 states of the U.S., as well as for residents of cities and towns located in Central California. All 22 acres are held in public ownership and open 24 hours each day. In 2002, National Geographic Traveler magazine declared Carmel beach one of America's Best Beaches. At about one mile in length, the beach's white sands extend out below translucent blue waters into Carmel Bay. Wind-sculpted Monterey cypress trees line the shoreline. Views to the north are of the majestic rocky bluffs of Pebble Beach; the south vista is of Carmel Point and Point Lobos beyond. Above the beach on Scenic Road, a recreational trail system offers a unique public pathway experience as it meanders along the undulating bluffs. The decomposed granite pathway passes between Cypress tree and vegetated bluff outcrops and is complemented by nine vertical access stairways and a series of benches and overlooks. The trail provides a complementary experience to the sandy beach for individuals interested in enjoying the shoreline from the bluff.

Aside from its world-class beach, the City also maintains a handful of parks, preserves, and other recreational opportunities within its boundaries including Mission Trails Nature Preserve, Rio Park, Forest Hill Park, and the Carmel Mission. With the



exception of the Mission, these parks are generally undeveloped forest lands with Monterey pine and coast live oaks, though all contain a wide variety of vegetation and habitats. Most of the parks are developed to support passive and active recreational activities (e.g., hiking, nature study, etc). The Carmel Mission (Mission San Carlos Borromeo) is a state and federally-listed Historic Resource. It was originally constructed in the late 18th century and is an excellent example of a restored/reconstructed California Mission, which has the added importance of being founded by Father Junipero Serra. The Mission is open to the public and is the gathering place for a multitude of functions including weddings, masses, concerts and lectures, and as a historical museum.

Carmel-by-the-Sea is also world renown for its shopping. Ocean Avenue is the starting point for a multitude of art galleries, restaurants, jewelry stores, clothing shops, and bistros. The City's commercial core is dominated by ground floor retail shops often with second story visitor-serving accommodations. Hundreds of thousands of visitors each year come to Carmel to stroll through the village, shopping, eating, people watching, and maybe rub elbows or catch a glimpse of some of the town's most famous residents and visitors.

As alluded to above, the City of Carmel-by-the-Sea also provides an excellent amount of overnight visitor-serving accommodations. There are approximately 950 hotel/motel rooms within the city limits occupying roughly 50% of the land area in the business district. Accommodations range from elegant resort-like hotels to smaller whimsical bed and breakfasts. As noted above, most visitor-serving lodging resides in the business district around Ocean Avenue, though there are a few sites sprinkled in the residential-zoned neighborhoods. Based on approximately 3,200 home sites within its boundaries, the City of Carmel provides roughly 1 visitor-serving room per every 3.5 houses.

Consistency with the Coastal Act

On November 15, 2002, the City of Carmel-by-the-Sea resubmitted its Coastal Land Use Plan that includes among other things goals, objectives, and policies designed to protect, maintain, and improve a multitude of public access and recreational opportunities along its shoreline and inland parks. The LUP discussion of access and recreational issues appears on pages 51 – 71 and includes policies that are to a great extent, consistent with Coastal Act policies 30210, 30211, 30212, 30212.5, 30213, 30214, 30220, 30221, 30222, 30223, and 30252.

The City's LUP policies identify and maintain the current variety and number of public access points and recreational support facilities along the nearly 1 mile stretch of coastline. Development activity is limited to public information signing and facilities that support active and passive recreational activities, beach access, bluff protection (when warranted) and protection of infrastructure (when warranted). The plan recognizes the Del Mar Avenue parking lot as the principal vertical access point to Carmel beach with



its 125 free public parking spaces, a sand wash-off station, and public restrooms. The access discussion notes that traffic and congestion in this area are a problem and that attempts to redesign or improve circulation need to avoid or minimize the loss of parking spaces at this location. South of Ocean Avenue along Scenic Road, there are another eight improved vertical access stairways and two vertical sand ramps. LUP policies provide additional protection and maintenance of these vertical access points requiring they be repaired or maintained when storm damaged. A pedestrian path follows the undulating bluff on the western edge of Scenic from 8th Avenue south to Santa Lucia. The City has adopted LUP policies to maintain this path as a public recreational resource and has recommended that the entire length of the blufftop path (approximately 1 mile) be designated as a local segment / connection in the California Coastal Trail. Additionally, the LUP directs the City to research and identify a location for replacing the current temporary restroom facility on Scenic with a permanent structure. Accessing the blufftop path is logically gained from one of the roughly 125 free parking spaces spread along Scenic Road. In addition, there is one unimproved vertical access point north at 4th Avenue. In the spirit of maximizing public access and maintaining frequent public access points, the LUP requires that this vertical access be improved for public use and enjoyment. LUP policies were also developed to allow a balance of uses with the City's inland parks and preserves. The LUP contains policies that provide for public access and passive enjoyment of City parks while maintaining and preserving sensitive habitat and natural resource areas. In summary, the City's LUP policies address the access and recreation policies of the Coastal Act by: maintaining the Del Mar dunes in public ownership, retaining existing and providing additional public restroom facilities, designating the blufftop pedestrian path as a segment of the California Coastal Trail, maintaining the existing vertical access stairways, improving the vertical accessway on 4th Avenue, providing public parking, and recognizing public prescriptive rights of access.

The LUP also requires that procedures and regulations for temporary events on the beach be implemented to protect public access and environmental resources. Each year Carmel beach is the scene of a handful of public events including a surf contest, kite festival, sandcastle contest, and movie on the beach. These events are free and open to the public and do not preclude access to the City-owned beach. Additionally, the City receives between 3 and 6 requests annually for special event permits for private beach parties (e.g., weddings, etc).

Visitor-serving accommodations provide an opportunity for overnight visitors to stay in the City, and experience the character and charm of the coastal village. They also facilitate access to the City's beaches, parks, and shopping areas as well as providing an economic benefit to the primarily residential community. As noted above, the City provides roughly 950 visitor-serving rooms within its one square mile boundaries. Although the adopted LUP policies do not require any further expansion of visitor-serving amenities, it does establish that the current balance between visitor-serving,



residential, and commercial uses be maintained. The LUP also requires a periodic evaluation of whether an appropriate balance of land uses is being maintained.

1. Preferential Parking

The LUP includes a preferential parking policy for Scenic Road and the Del Mar parking lot. Under the program, public parking along this stretch of coastline, as well as the Del Mar Avenue parking lot, would be available from 5:00 a.m. to 10:30 p.m. daily. Residents of Scenic Road are allowed to park 24 hours each day with a resident parking permit. This policy was included to address perceived public nuisance concerns associated with nighttime visitors to Carmel Beach. As discussed below, the policy is not consistent with Coastal Act sections 30210 and 30212, which require maximum public access and access from the nearest public roadway.

Scenic Road lies at the western most edge of the City. It follows the naturally undulating bluffs above Carmel Beach and offers magnificent views of the shoreline. Private homes line the east side of Scenic Road. The western right-of-way provides parking for roughly 125 vehicles and a delineated pedestrian blufftop path experience. There are eight vertical access stairways and two sand ramps leading to the beach along this eight-block stretch of coastal roadway. The Del Mar Avenue parking lot at the foot of Ocean Avenue provides another roughly 125 parking spaces and other public recreation improvements. Several homes dot the southern "turn-around" of the lot. Parking or stopping during the evening (i.e., 10:30 p.m. – 5:00 a.m.) would be prohibited for the general public, though residents and their guests would be allowed to park by displaying a parking permit.

The issue of preferential parking arose in 2000 when the Commission discovered that the City had been operating a public parking ban along Scenic Road for several years without the benefit of a coastal development permit. The discovery was made when the City submitted an application for an "after the fact" permit for the Scenic Road parking program and to expand the parking ban to the Del Mar Avenue parking lot. The parking restriction prohibited parking one half hour after sunset to 5:00 am for all except those with a resident parking pass. The City withdrew its application prior to Commission action. The issue was elevated to a Coastal Act violation and passed on to the Commission's Enforcement division. Pending action by Enforcement, the City agreed to remove or make ineffective the parking program until such a time when it could provide evidence in support of the program. The parking program resurfaced in the form of an access policy in the City's re-submittal of its Coastal Land Use Plan.

In this instance, the City of Carmel-by-the-Sea proposes the parking restrictions to address a perceived public nuisance due to evening public parking near the beach.



Over the past two years, staff has suggested that an evaluation of the available supply of parking for the homes along Scenic Road and Del Mar Avenue and demand for off-street parking during the evening, busy weekends, and holidays be submitted within the context of an coastal development permit application or LCP submittal. The City provided:

“there is some time of day variability and seasonality associated with recreational beach visitors. Most members of this group visit during daylight hours and peak use occurs in the afternoons. Summer is the peak season of use with substantially less demand in the winter season.”

Additionally, the City provided nine months of data from its police department (i.e., 2002 year-to-date calls for service) as evidence that a parking program was necessary. See Table 1.

TABLE 1

	8:00 am – 4:00pm	4:00 pm – 12:00am	12:00am – 8:00am
Noise Complaint	9	12	1
Suspicious Person	3	6	2
Suspicious Vehicle	4	3	2
Suspicious Activity	1	3	2
Vehicle Code Violation	3	2	0
Beach Fire Violation	20	56	9
CMC Violation	6	9	1
Parking Violation	82	39	4
Vehicle Lockout	0	1	0

Table 1 breaks out the types of complaints by hour. The first column lists the type of complaints. The second, third, and fourth columns represent the hours and numbers of occurrences. Column two occurrences are outside the affected hours of the parking program, however the data does provide a context for evaluating responses during other hours.

The LUP policy raises issues regarding public use of public streets for parking in order to access the beach, elimination of low-cost recreational amenities during the evening, exclusive use of public property for private use, and absence of adequate parking nearby. To begin with, Carmel Beach is a free resource open to the public 24 hours each day. The ability to take a stroll along the beach or pedestrian path during the evening is substantially dependent upon parking in one of the 300 available public parking spaces on Scenic Road or in the Del Mar lot. The City has offered that nighttime beachgoers (after 10:30 p.m.) could park on adjacent neighborhood streets and access the beach via one of the unimproved connecting easements. San Antonio is located immediately inland of and is parallel to Scenic Road. It is a narrow in width



without any walkways or street lighting. The public owned right-of-ways in many cases have trees and/or other landscaping impeding parking. Often the available undeveloped spaces are used for second or third resident vehicles. There are no through roads to the beach between 8th Avenue and 13th Avenue. There are however, poorly marked unlit easements approximately 3' – 4' in width that can be used to walk down to Scenic Road. Although, adequate for using during daylight hours, these easements contain tree roots and cracked and uneven surfaces that make walking on them in the dark hazardous. Furthermore, because they are not well signed or illuminated, they are difficult for visitors to locate even during daytime hours.

Secondly, displacing visitors and their vehicles onto adjacent neighborhoods may introduce problems associated with additional traffic and parking into an area where there are not the improvements to handle them. Because the street right-of-ways are often used by residents for second and third vehicle parking, reallocating public parking onto San Antonio may lead to increased user conflicts as residents and visitors compete for available spaces. Additionally, the limited amount of parking on San Antonio may lead to an increase of parking on or very near sensitive resources such as the root area of significant trees or other vegetated strips. Conversely, both Scenic Road and the Del Mar parking lot have clearly designated parking spaces, a separate and safe pedestrian path, restrooms, and greater street widths to handle the mix of cars, people, bikes, etc.

The City's recommendation for restricting parking at 10:30 p.m. coincides with the 10:00 p.m. curfew on beach fires, but it does not account for the possibility of a midnight walk or late night stargazing or even nighttime fishing. The blufftop pedestrian path similarly provides one of the few coastal recreational opportunities on the Monterey peninsula for persons with disabilities during the evening. Access to this recreational experience is gained from parking along Scenic Road. A 10:30 p.m. ban on public parking along Scenic Road and the Del Mar lot would preclude nighttime access to the coast for this user group. During the summer months the sun sets at 8:30 p.m. and the sky is not completely dark until shortly after 9:00 p.m. People, visitors and residents alike, are still bustling about at 10:00 p.m., 11:00 p.m., even mid-night on warm summer evenings. Restricting parking at 10:30 p.m. substantially decreases the opportunity for all persons to enjoy the beach other than those that live on Scenic or Del Mar or are the guests of these residents.

The City has argued that LUP policy P9-134 is consistent with the intent of Coastal Act section 30210 (maximum public access), 30212 (public access from nearest roadway), and 30214 (regulate time, manner, and place of access) consistent with public safety needs, the need to protect public rights, the rights of private property owners, and natural resources from overuse. As has been demonstrated in the findings above, the LUP policy is clearly not consistent with 30212 because it displaces public parking from the nearest public roadway. This is not consistent with sections 30210 or 30214 as well. Coastal Act section 30210 requires that the provision of maximum public access



consider public rights and the rights of private property owners. In this case, the land on which public parking is provided is public lands. Access to the beach is gained by traversing on public lands. And the beach itself is again on public lands. In no instance is the public trespassing onto private property. However, as proposed, implementation of a preferential parking program would infringe on the rights of the public, the right of access to the coast. Thus, the Commission concludes that LUP policy P9-134 is not consistent with Coastal Act section 30210.

Similarly, Coastal Act section 30214 states that the access policies shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending upon the facts and circumstances in each case including the proximity of the access area to adjacent residential uses. At the time the City's made its application, only one in four homes (16 of 61), which line Scenic Road or the Del Mar Avenue parking lot were owner occupied, the remaining were vacation homes owned by non-residents. Table 1 above provides a summary of request for calls for police service for the first nine months of 2002. There were 128 complaints during the hours unaffected by the parking ban (8:00 a.m. – 4:00 p.m.) and 131 complaints during the 4:00 p.m. – 12:00 a.m. time period. Beach fires and parking violations required the most responses. Parking violations result when a vehicle is parked in an illegal spot such as a red zone or handicap space or is greater than maximum allowed size class. Most of these occur during daylight hours when demand for parking spaces is strong. Beach fire violations result from having a fire in an area prohibited by the City or when they are not extinguished at 10:00pm. The City's beach fire requirements are confusing and not well signed. Coastal visitors unfamiliar with these requirements make up the bulk of these calls for service. Noise complaints followed up the parking and fire responses with 13 complaints during the 4:00 p.m. – 8:00 a.m. period or roughly 1.4 per month. There were 9 noise complaints during the day. Finally, there were a handful of other requests for service, though the numbers are insignificant (i.e., less than one per month). It is notable that there were no violent crimes reported over the past nine months. Several local juveniles did, however, vandalize the portable restrooms at the end of Scenic Road this past summer. Thus, with the exception of a very few incidents, most of the requests for police services were for minor infractions of the City's municipal code. Most could be addressed through educating the public about beach rules and regulations; the remainder are enforcement issues and not atypical of any California community. The information provided by the City does not support the need to regulate time and place of access as stringently as the City proposes. Therefore, LUP policy P9-134 is not consistent with Coastal Act section 30214 either.

Finally, City staff has indicated the need for a preferential parking program to ensure that there was adequate parking for the beach side residents. Allowing that roughly three-quarters of the homes are vacant most of the time along Scenic Road and Del Mar Avenue, the City's argument is weak. Moreover, every home along Scenic Road has a parking garage and adequate driveway space to accommodate a minimum of two vehicles. Furthermore, Commission staff observed during visits to the area in the



evenings, that there were an adequate number of available parking spaces along Scenic Road and the Del Mar Avenue parking lot for resident's guests and visitors alike. Thus, this argument is unconvincing.

This process began roughly two years ago when the City applied to the Commission to legitimize and expand the parking restrictions at Carmel Beach. At that time, City officials and residents predicted significant conflicts between visitors and residents would occur unless beach parking, and by extension, access to the beach was denied to all but the 61 shorefront residents along Scenic Road and Del Mar Avenue. This has not occurred, as the parking signs have been covered over the last 12 months. Based on the evidence provided by the city and over the course of many months of investigation and analysis, it appears the additional restrictions on public access due to the perceived onslaught of public nuisance problems is unwarranted. As a result, LUP policy P9-134 implementing a preferential parking program from 10:30 p.m. – 5:00 a.m. along Scenic Road and the Del Mar Avenue parking lot is inconsistent with the Coastal Act.

Recommended Modification

The loss of coastal recreation opportunities resulting from the implementation of a preferential parking program represents a significant adverse impact to the availability of public access and recreational opportunities in Carmel. Defined broadly, these opportunities include not only the physical availability of access and recreation areas, but also the ability of the public to reach and utilize these sites. The recommended preferential parking policy contained in the Land Use Plan is inconsistent with the intent of the Access and Recreation policies of Chapter 3 of the Coastal Act. The City's LUP policy P9-134 states:

P9-134 Provide convenient and free public beach parking from 5:00 a.m. until 10:30 p.m. daily. Parking outside of these hours along Scenic Road and at the Del Mar parking lot shall be limited to residents and guests with a resident's parking permit.

Although the Commission is unconvinced that a public parking ban is needed at the Del Mar Avenue lot, it does recognize that certain benefits can accrue from enacting a limited overnight parking ban along Scenic Road. Thus, in order to insure the protection and provision of public access along with the consideration of public safety needs, the needs to protect public rights, rights of private property owners, and the protection of natural resources consistent with 30210, 30212, and 30214, staff is recommending that LUP policy P9-134 be modified to:

Modification 28 Provide convenient and free public beach parking from 5:00 a.m. until ~~10:30 p.m.~~ 1:00 a.m. daily. Parking outside of these hours along Scenic Road and ~~at the Del Mar parking lot~~ shall be limited to residents and



guests with a resident's parking permit.

Based on the findings provided above including the recommended modification to policy P9-134 contained in the Land Use Plan, the Commission finds that the Public Access and Recreation policies contained in the Land Use Plan for the City of Carmel-by-the-Sea meets the requirements of and conforms to all of the Public Access and Recreation policies of Chapter 3 of the Coastal Act.

2. Del Mar Road Abandonment

A second ongoing issue is the abandonment of the Del Mar Avenue road right-of-way. Several segments of public property have been abandoned along a stretch of coastal dune between the Del Mar Avenue parking lot and 8th Avenue without the benefit of a coastal development permit. The abandonment has been elevated to a Coastal Act violation. The loss of this public property represents a loss of potential public recreational opportunities. Central Coast staff has attempted to negotiate with the staff of the City of Carmel to resolve this issue over the past 10 years but has been unsuccessful to date. During the course of the evaluation of the City's LCP, the Commission has reminded City staff of its obligation to resolve the issue either in the context of the LCP or a Coastal Development Permit application. As of the date of this staff report, the Commission has not received an application to abandon the roadway and the City's current adopted LUP has omitted any reference to the issue.

Recommended Modification

Coastal Act sections 30210 – 30213 require public access to the coast be protected and sections 30221 – 30223 require protection of coastal recreational uses. As submitted, the City's LUP is silent on the Del Mar Avenue road abandonment and is therefore inconsistent with the Chapter 3 policies listed above. LUP policy P9-101 states:

P9-101 Improve pedestrian circulation between the north end of the Beach Bluff Pathway at Eighth Avenue and the beach facilities at Ocean Avenue and Del Mar as part of the Del Mar and North Dunes Master Plan.

The Commission recommends the following modifications to P9-101 to bring it into compliance with the Coastal Act:

Modification 29 Abandonment of any segments of the Del Mar Avenue roadway shall include on-site mitigation to include provisions for public access. Mitigation shall consider installation of a ~~Improve-pedestrian circulation-path~~ between the north end of the Beach Bluff Pathway at Eighth Avenue and the beach facilities at Ocean Avenue and the Del Mar Avenue parking lot. as part of the Del Mar and North Dunes Master Plan.



As so modified by P9-101, the City of Carmel-by-the-Sea LUP is consistent with the Chapter 3 policies for provision of access and recreational opportunities.

3. Low-Cost Visitor-Serving Amenities

As stated previously, the City of Carmel-by-the-Sea and its magnificent beach and parks is a world-renowned destination for visitors from Central California, all 50 contiguous U.S. states, and the world. Overall, a wide variety of recreational opportunities exist within the City such as surfing, diving, hiking, beach-combing window-shopping, nature study, and equestrian use. The City of Carmel provides a substantial number of lower-cost visitor-serving amenities within its roughly one square mile boundaries. It has been estimated that there is 1 visitor-serving room per every 3 homes in Carmel. It follows naturally that the City's LUP contains policies protecting the current balance of land uses including the mix of residential, commercial, and visitor-serving. However, the LUP is silent on preserving low cost visitor-serving amenities. The LUP does reference Coastal Act section 30213 at the beginning of the Access and Recreation chapter. It requires that lower cost visitor and recreational facilities be protected and encouraged and where feasible, provided. Due to the astronomical rising of property values and increased rents in the City's commercial district, it is essential that low cost visitor and recreational facilities be protected. For this reason, the LUP cannot be considered consistent with 30213.

Recommended Modification

Coastal Act section 30213 requires low cost visitor and recreational facilities be protected and encouraged and where feasible, provided. As submitted the City's LUP is not consistent with this policy. Staff recommends adding the following new policy to the City's adopted LUP:

(Modification 30) Lower cost visitor and recreational facilities be protected and encouraged and where feasible, provided. Developments providing public recreational opportunities are preferred.

As modified, the City's LUP policies for the protection and provision low cost visitor serving amenities is consistent with Chapter 3 of the Coastal Act.

D. Hazards

Coastal Act Policies

The Coastal Act addresses coastal hazards through Coastal Act Sections 30235 and 30253. Coastal Act Section 30253 addresses the need to ensure long-term structural



integrity, minimize future risk, and to avoid landform altering protective measures in the future. Section 30253 provides, in applicable part:

Section 30253. New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Coastal Act Section 30235 addresses the use of shoreline protective devices:

Section 30235. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Policy Summary

In sum, the Coastal Act requires that new development be constructed in such a manner as to assure stability over its lifetime. Such stability is meant to be ensured at the time of construction; future stability problems are to be avoided by ensuring that adequate provisions are made at the time of construction to address coastal hazards. The Coastal Act also includes provisions for allowing shoreline armoring under certain circumstances.

In the case of Carmel, evidence to date does not indicate that there are any areas more prone to 30253 hazard issues than other Monterey Peninsula communities. The primary Coastal Act hazard issue in Carmel appears to be associated with shoreline hazards (including episodic and steady bluff retreat and erosion, storm wave and surf attack, and coastal flooding).

Under Section 30253, new development is to be designed, sited, and built to allow the natural process of erosion to occur without creating a need for a shoreline protective device. In other words, coastal zone development approved and constructed pursuant to 30253 should not require shoreline protection in order to "assure stability and structural integrity" because it was constructed with adequate setbacks and/or other measures in order to negate the need for future armoring.



Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or "hard" methods designed to forestall erosion also alter natural landforms and natural shoreline processes. Accordingly, with the exception of new coastal-dependent uses, Section 30235 limits the construction of shoreline protective works to those required to protect existing structures or public beaches in danger from erosion. The Coastal Act provides these limitations because shoreline structures can have a variety of negative impacts on coastal resources including adverse affects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach.

LUP Submittal

The proposed LUP includes a range of policies applicable to shoreline hazards and erosion response. The LUP also includes as an appendix a shoreline management plan (SMP) that includes hazard and erosion response components for the shoreline, and also includes information and policies relevant to public access, recreation, and other coastal resource issues associated with that area seaward of the first public road.

Analysis and Required Modifications

The submitted LUP generally responds to Coastal Act hazard policies, but it isn't entirely consistent with the Act in each case. There is also a lack of clarity and some internal inconsistency within the proposed policies that could lead to confusion when the LUP is implemented in the future. Such confusion would be at the expense of the coastal resources it is designed to protect. The following paragraphs discusses these deficiencies and offer suggested modifications to bring the LUP into conformance with the relevant policies of the Coastal Act.

Coastal Act Section 30253 missing

The draft LUP omits reference to Coastal Act Section 30253 parts 1 and 2 in the Coastal Resource Protection Section where Coastal Act polices are listed. These Coastal Act Sections are relevant to ensuring the stability of new development, particularly ensuring that new shoreline development does not require additional shoreline protection measures in the future that could alter natural landforms. Fortunately, this issue can be easily addressed by including a reference to these Coastal Act sections in the applicable policies section of the LUP.

LUP's "Coastal Resource Protection" background section

The Coastal Resource Protection section background component includes a number of small inconsistencies, and some small errors. Fortunately, these can be easily corrected to ensure that the LCP accurately describes Carmel's coastal resource background by incorporating the following changes into the LUP:



- Pages 76-77: "Carmel, like..., appears to derives most of its sand..."
- Page 77, last paragraph: "If left unmanaged, the bluffs surrounding Carmel Bay would progressively erode from the impact of winter storm waves, and from surface drainage, and other steady and episodic erosion processes."
- Pages 77-78: "Erosion of Carmel's bluffs is quite variable along the shoreline and is includes both steady erosion and episodic events."
- Pages 78, second paragraph: Change the reference to Figure 9.7a to Figure 9.6.a.

In the Coastal Resource Protection section, the LUP asserts that historic shoreline structure development along the back beach has not led to the loss of beach sand at Carmel Beach. However, this assertion has not been well verified. Although some anecdotal evidence suggests that the cumulative sand supply impact from the almost complete armoring of the southern portion of the Carmel Beach bluffs over the years may be negligible, there has not been any exhaustive analyses that clearly prove this theory. Moreover, recent studies suggest that the width of the beach has decreased since 1949. Accordingly, the status of the beach resource as indicated in the LUP's background text, and on which the proposed policies are based, is not so clear cut. Fortunately, this issue can be easily addressed by including verbiage qualifying the status of the beach resource as understood from current information and studies.

LUP Figure 9.6a refers to "Public Coastal Protection Structures." As a result, it only maps a portion of the shoreline structures along Carmel's shoreline. Although the vast majority of such structures are public, there are also some private structures (e.g., at the mouth of Pescadero Creek). The figure will thus tend to understate the extent of armoring and could, as a result, understate the extent of coastal resource impacts associated with same. To be as clear as possible, the figure should be amended to map all shoreline structures, and then to identify which of those are public versus private. Since SMP Figure 8 already does this, this issue can be addressed by inserting SMP Figure 8 as LUP Figure 9.6a

LUP Figure 9.6b is entitled "Sand Displacement and Deposition" and indicates that is maps "Sand Displacement and Replenishment." However, it is clear from the corresponding the LUP text (and from SMP Figure 9 that is more detailed) that this figure actually identifies areas where the City has historically manipulated beach sands by redistributing sand from the lower to higher beach elevations. While 'displacement' could be accurate, deposition and replenishment, as though terms are understood, has not historically been a part of the City's sand movement program. These inaccuracies can contribute to an incorrect understanding of the beach area resource, as similar to others above, that could lead to both incorrect policies and implementation of them in the future. Fortunately, this issue can be easily addressed by changing the title and the legend of Figure 9.6b.



Shoreline Armoring

The Coastal Act allows shoreline armoring only specific circumstances. The policies suggested, while mimicking Coastal Act requirements in some respects, are internally inconsistent (e.g., P9-167 prohibits structures on the beach, while P9-161 and P9-162 allow them in certain situations; P9-161 and P9-162 establish different criteria from each other) and in some cases overly broad (e.g., P9-161 and P9-162 could be read to allow armoring in situations not envisioned by the Act). Moreover, the policies are somewhat muddled.

Because the City's shoreline is relatively small, the policies should be very specific. In Carmel this boils down to decision points regarding when a armoring project is warranted, what needs to be done to ensure that allowable armoring projects are consistent with the established beach aesthetic and character, and sensitive to maintaining and preserving the beach and the overall beach recreational experience as directed by the Act. Armoring is allowed for existing endangered structures. In the case of Carmel, the Commission has previously recognized Scenic Road and the recreational trail system on the bluff above Carmel Beach as facilities worthy of such protection. Thus, the policies proposed provide a thorough basis, but can be clarified to ensure Coastal Act consistency and ease of implementation (both this LUP and a future IP) in the future.

In addition, the LUP contains a series of policies intended to help coastal managers better understand Carmel Beach dynamics. These policies are directly related to the LUP's Shoreline Management Plan (SMP) that was submitted as part of this proposed LUP. The SMP was a requirement of the CDP 3-00-140 (issued to the City for shoreline armoring), and built upon previous SMP-like requirements of other armoring permits issued to the City. The previous SMP requirements are clear, and were developed to assist the City in just such plan development.

Part of the issue precipitating the SMP, as discussed above, is that it is not clear whether Carmel Beach is shrinking, and what effect shoreline development and armoring has had on this process. Although anecdotal evidence suggests that it is in a state of relative equilibrium, recent studies indicate that the beach may be retreating. Because the bluff has effectively been fixed along most of Carmel's back beach, beach retreat would eventually imply that Carmel Beach would no longer be present eventually. The City has committed to analyzing the dynamics of the Carmel Beach, building upon their significant efforts to date, and to monitor beach erosion, particularly as it is affected by shoreline structures. The SMP goal and policies P9-157, P9-158, P9-159, and P9-160 are specifically related to this task. The same can be said for portions of policies P9-172, P9-173, P9-174. However, such plan development should be consistent with past Commission action and adequately responsive to the types of information necessary to understand the issue.

As to P9-157, P9-158, P9-159, P9-160, P9-172, P9-173, and P9-174, while generally



appropriate, there are a few areas where these policies can be clarified to remove redundancy and to ensure that the analysis and studies are the most useful to the City and the Commission as they can possibly be, and as consistent with past Commission action on this issue as possible. And so that, ultimately, decisions are made as regards the irreplaceable treasure of Carmel Beach with this knowledge available. Thus, modifications are suggested.

Shoreline Management Plan

It is not clear at the current time how best to integrate the submitted SMP and its emergency action response plan into the LUP. Part of the reason for this is that the LUP is arranged by issue area, while the SMP is really more of a specific plan related to the shoreline, including a range of policies applicable to hazards as well as those applicable to ESHA, public access and recreation, and other shoreline issue areas. The SMP includes incredibly valuable background information on the Carmel shoreline and how to preserve it for future generations. Additional analysis is needed, however, to ensure that it integrates seamlessly into the LUP. This is particularly the case as it relates to the SMPs emergency action response plan inasmuch as it appears to pre-authorize development under particular conditions and outside of the coastal permit process. The SMP, and its more detailed information designed to clearly describe the steps necessary for the long term management of the Carmel shoreline, are better dealt with in the IP. A modification is thus suggested that the SMP be included in the IP, and removed from the LUP.

Long-term Stability

The LUP is lacking a general hazard policy that is unrelated to shoreline hazards. Such a policy is necessary to ensure that all development in the City, not just shoreline development, is constructed in such a way as to ensure its long-term stability, as directed by the Act. Fortunately, this is easily addressed by including a new policy applicable citywide

Hazard Conclusion

As modified by Modifications 31 - 52, the LUP can be found consistent with Coastal Act policies 30235, 30253(1) and 30253(2).

E. Water Resources

The following sections of the Coastal Act pertain to the management of available water supplies:

Section 30231. *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means,*



minimizing adverse effects of wastewater discharges and entertainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30250(a). *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Section 30254. *New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted, consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded, except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services, and basic industries vital to the economic health of the region, state, or nation, public reaction, commercial recreation and visitor-serving land uses shall not be precluded by other development.*

LUP Reference: Community Infrastructure, Water Resources

Background

Following the severe drought conditions in the late 1970's, voters in Carmel and elsewhere on the Monterey Peninsula, approved the formation of the Monterey Peninsula Water Management District (MPWMD) to regulate water resources on the Monterey Peninsula. The MPWMD regulates the collection, storage, distribution and delivery of water within the 170-square mile area of the district. All of the water used within the MPWMD comes from the Carmel River, from wells in the Carmel Valley, and the Seaside Basin. The MPWMD allocates water from these sources to the various water companies and smaller local jurisdictions.



The largest water distribution system in the Monterey Peninsula is operated by the California-American Water Company, which provides water to the City of Carmel and to nearly 95 percent of the 112,000 residents in the MPWMD. Cal-Am provides water to its users through groundwater extractions and diversions from the Carmel River via the Los Padres Dam. Both of these sources are currently being used at near or above their sustainable yield. Two threatened species, the California red-legged frog (*Rana aurora draytonii*) and the Steelhead (*Oncorhynchus mykiss*), are found in the Carmel River.

In 1995, State Water Resources Control Board Order 95-10 reduced the amount of water Cal-Am could take from the Carmel River aquifer by 20 percent in the near-term and up to 75 percent in the long-term. The MPWMD requested relief through the courts, but the Monterey County Superior Court upheld the 20 percent reduction in water use specified by the order. Since that time, the jurisdictions along the Monterey Peninsula, including the City of Carmel, have been under strict conservation measures, and have focused their efforts on improving water conservation programs while working on other water supply augmentation proposals that will garner community support and help Cal-Am attain the goals established by the Order.

State Order 95-10 also mandates that Cal-Am maintain production below 15,285-acre feet of water per year within the Cal-Am boundaries. All of this water is already allocated to current users or proposed construction that has already been approved, and no additional water source is presently available to serve Cal-Am customers within the district.

A 1998 report on the estimated future water needed for buildable legal lots of record on vacant parcels within the Cal-Am service area states that approximately 923 acre-feet of water would be needed for new buildings as of January 1997 and remodels through the year 2006 (MPWMD 1999 Annual Report). The MPWMD has since been working on completing an update of this report, and while the 2001 update is not yet published, the agency has determined that approximately 1,400 acre-feet of water would be needed for the existing vacant legal lots of record on unimproved parcels within the MPWMD boundaries. Additional water needed for unincorporated County areas with existing vacant legal lots of record that have some improvements on them (such as small sheds or other such structures) have not yet been calculated. However, it is expected that the total water requirement would be somewhat greater than 1,400 acre-feet.

At this time, no new supply of water is on the horizon. Cal-Am and the MPWMD, however, are currently searching for additional water supplies. Possible alternative strategies include implementation of groundwater injection (e.g., storage of excess water from the Carmel River in the Seaside Coastal Basin during winter months), desalinization of seawater, wastewater recycling (i.e., using reclaimed wastewater for irrigation purposes), and additional water conservation efforts that include retrofitting or replacing water-using appliances and fixtures and drought resistant landscaping.



Carmel, like all the cities on the peninsula, has little or no unallocated water for new development according to City Planning Staff. As there are very few vacant lots in the City of Carmel, most new development involves the demolition of older buildings and the subsequent construction of replacement structures. In order to ensure that the City stays within their allocation, these replacement buildings must demonstrate that they will not use additional water beyond that used by the demolished structure. Although the replacement buildings, particularly new homes, are often significantly larger than the demolished structures, water parity is maintained by the use of water conserving fixtures and landscaping that does not require extensive irrigation.

Given that water is an important coastal resource, especially within the Monterey Peninsula area where water supplies are extremely limited, it is vitally important that the LUP contains policies that adequately regulate development to protect water resources. These policies must be consistent with Coastal Act policies requiring that new urban development be located in urban areas with adequate public services, and that give priority to certain types of development when public services are limited.

LUP Policies

The Carmel LUP contains a number of policies directed to the preservation and allocation of water in the City. (Pages 40-41. LUP) Most of these policies are directed towards ensuring that new and existing development comply with the various water conservation policies relevant to fixtures and landscaping and City coordination with other cities and agencies to monitor the allocations and seek new sources of water. (Policies G9-3, 09-6, P9-35,P9-37, P9-38, P9-39, P9-40, P9-41, and O9-7). These policies are mostly consistent with the policies in the Coastal Act that require the protection of water resources and that new development should be directed to existing areas able to support it through adequate public services (PRC 30231 and 30250 (a)). Water supplies are so limited, however, that a stricter policy on the use of native (and thus less needful of irrigation) plants in new development landscaping is needed. Please see modification 59.

The LUP also contains two policies that establish priorities for water when supplies for new development are very limited as is the case now. Policy P9-36 gives priority for water to residential uses and to Municipal projects. In contrast, the Coastal Act, in Section 30254, gives priority to *"coastal dependent land use, essential public services, and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation and visitor-serving land uses."* In the case of Carmel, there is no existing development that is "coastal dependent" and none is planned for in the LUP. Carmel is also not developed with any basic industries and no land is designated for such use in the LUP so these Coastal Act priority land uses are not relevant to Carmel and thus don't need to be given any priority for scarce water supplies. Carmel is, however, a popular visitor destination and has significant public recreation facilities and visitor serving development. Virtually all of the land designated



for such uses is built out with those uses and as currently developed, there is neither room nor need for much additional public recreational or visitor serving development with the exception of the planned permanent restrooms on Scenic Drive. In order to ensure that these uses are not reduced in the future and Coastal Act consistency is achieved, policy P9-36 must be revised to provide for the reservation of water capacity for these types of development. As revised by Suggested Modification 53 to acknowledge these priorities, the policy is consistent with the requirements of Coastal Act Section 30254. Proposed policy P9-43 must also be revised to be consistent with the proposed modifications to P9-36. (Please see Suggested Modification 54)

As discussed in a preceding section of this report, most of the new development in Carmel is, and will continue to be, demolitions and re-builds because the City has virtually no unallocated water. Coastal Act Section 30250(a) requires that new development must be able to be served by adequate public services. In order to comply with this requirement by ensuring that the City's water allocation will not be exceeded, new replacement development cannot require more water the development it replaces. Proposed Policies P9-42 and P9-44 partially address this issue but more specific policy language is needed to ensure consistency. Suggested Modifications ensure that all new development will be carefully analyzed to ensure that it remains within the available water allocated to the use it replaces. (Please see Suggested Modifications 56 and 57)

Section 30250(a) requires urban uses to be served by public services for water and sewer service. Carmel is entirely urban. Public water service is provided by the Cal Am Water Company, a privately owned purveyor that is regulated by the public through the PUC. This policy derives from one of the most fundamental principles of the Coastal Act, as well as modern urban and environmental planning: *the establishment and maintenance of stable urban/rural boundaries for the protection of sensitive resources and to provide for the rational planning of public services to support new urban development.*

In particular, the benefits of urban/rural boundaries include the prevention of urban sprawl, protection of agricultural land, efficient use of land, and the rational planning and construction of urban infrastructure (e.g., roads, utilities, and sanitation systems) to support urban intensities of land use. Urban-level intensity land uses are then directed to locate within urban areas, preserving rural lands for low intensity rural land uses. Certainly the services that are required to support urban uses (e.g., water supply and storage/conveyance/treatment systems, sewer connections, wastewater treatment plants, etc.) are greater and different than those needed for rural land uses (e.g., small wells and individual septic systems). Coastal Act policy 30250 states this premise as follows:

Section 30250(a) *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas **able to accommodate it or,***



*where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually **or cumulatively**, on coastal resources...* [Emphasis added].

This policy provides that if an urban area lacks critical infrastructure - e.g., water, sewer, or road capacity – to support further urban development, then new development must be delayed until the capacity of the limited service can be increased, through a comprehensive urban planning process, in order to support it. It does not mean that urban uses should proceed incrementally, using what are essentially rural-level services (e.g., private wells and septic systems). The proliferation of rural services within an urban area causes practical problems (e.g., wells run dry, lot sizes are too small to accommodate septic systems) and planning problems. Ultimately, incremental development without comprehensive planning may lead to serious environmental resource impacts such as groundwater overdraft, polluted groundwater, degraded riparian habitat, and so on.

Since water supplies are limited, the City has been very careful to ensure that all new development can be served by public water and keep within their allocation from Cal Am and the Monterey Water District. Authorization of private wells or private desalination facilities within this public service area, whether for potable water or supplemental non-potable water for irrigation purposes, is contrary to the planning principals discussed above and could lead to potential cumulative impacts which undermine Cal-Am's ability to provide adequate water supplies to existing service connections within the Monterey Peninsula Water Management District. Suggested Modification 54 is needed to ensure that the Coastal Act requirement that urban uses be served by public utilities is met.

Finally, Section 30254 of the Coastal Act limits the capacity of public infrastructure to be consistent with planned build out of urban areas rather than allow these facilities to be oversized which would promote urban sprawl. In the event that a desalination plant is ever chosen as a method to increase the public water supply, a policy limiting it's size is needed to meet the requirements of Section 30254. (Please See Suggested Modification 58)

Therefore, as revised by Suggested Modifications 53 through 59, the Water Resources Section of the Carmel LUP can be approved as consistent with the cited Coastal Act policies.

F. Water Quality

Coastal Act Policies

Section 30230 of the Coastal Act states that:

Marine resources shall be maintained, enhanced, and where feasible, restored.



Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Background

Carmel-by-the-Sea lies within and at the bottom of the Carmel River watershed. Runoff from the City flows into Carmel Bay, which is designated both as an Area of Special Biological Significance (ASBS) in the California Ocean Plan, and as a California Fish and Game Ecological Reserve. It is also part of the Monterey Bay National Marine Sanctuary. An ASBS is an area designated by the State Water Resources Control Board that requires special protection of species or biological communities that could be impacted by water quality degradation. As discussed in the Public Access finding, Carmel Beach and the shoreline also is a highly popular public recreation area. Maintaining and restoring water quality throughout the Carmel River watershed, and in this case, Carmel's urban landscape, is necessary to protect these sensitive coastal resources.

The Commission shares responsibility for regulating nonpoint source water pollution in the Coastal Zone of California with State Water Resources Control Board (SWRCB) and the coastal Regional Water Quality Control Boards (RWQCBs). The Commission and the SWRCB have been co-leads in developing and implementing the January 2000 Plan for California's Nonpoint Source Pollution Control Program (Plan), which outlines a strategy to ensure that management measures and practices that reduce or prevent polluted runoff are implemented over a fifteen-year period. Some of these management measures and practices are best implemented at the local planning level, since they can be most cost effective during the design stage of development.

The Commission and the Central Coast Water Quality Control Board (CCWQCB) are both working to protect water quality in the Carmel area, although each has different authorities and responsibilities in that effort. The Commission has primary responsibility



for protecting many coastal resources, including water quality, from the impacts of development in the coastal zone. The SWRCB and RWQCBs have primary responsibility for regulating discharges that may impact waters of the state through writing discharge permits, investigating water quality impacts, monitoring discharges, setting water quality standards and taking enforcement actions where standards are violated.

Carmel LUP as Submitted.

The City's amended LUP submittal includes a variety of important policies to address water quality issues. These include policies to develop a City-wide Storm Water Utility Program that will also address the City's need to implement a National Pollution Discharge and Elimination System permit; policies to regulate illegal discharges; watershed protection policies to retain natural drainages; restore areas beneficial to water quality; and so forth.

The submitted LUP also includes development policies that require the protection of natural drainage systems, site planning to address drainage and polluted runoff, and the use of Best Management Practices (BMPs). Specific standards include requirements to: design post-construction BMPs to treat, infiltrate, storm runoff; minimize impervious surfaces; use a water quality checklist in project reviews; and incorporate BMPs into commercial developments. Please see Attachment xx, pages xx-xx for the entire listing of LUP water quality policies submitted by the City.

Coastal Act Consistency

The Commission recognizes that new development in Carmel-by-the-Sea has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources. Coastal Act Sections 30230 and 30231 listed above require that coastal water quality be protected through policies that manage these types of new development impacts.

In particular, new development often results in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on project sites. As discussed in the community character finding, redevelopment activity in Carmel has the potential to lead to increased impermeable surface, particularly on the smaller, 4000 square foot lots in the City where typically small structures are located. In the last several years the Commission has reviewed permits for residential demolition and rebuilds that have generally resulted in significant increased impervious coverage. For example, in the last year the average proposed increase in site coverage on 4000 square foot lots was approximately 375 square feet or 9%. This includes, though, a wide range of proposed changes in coverage, including some projects that reduced coverage slightly to projects that increased coverage by over 70% or greater than 1000



square feet.

The reduction in permeable surface therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. The cumulative effect of increased impervious surface is that the peak stream discharge is increased and the peak occurs much sooner after precipitation events. Changes in the stream flow result in modification to stream morphology. Additionally, runoff from impervious surfaces results in increased erosion and sedimentation. In a setting such as Carmel, where informal street design (no curbs and gutters generally; unpaved road edges, etc.) and drainage are the norm, increased site runoff could have a significant impact on existing runoff patterns, ultimately resulting in increased erosion and a future need to manage runoff through engineered drainage structures. Thus, minimizing impervious coverage is essential to both protecting water quality, and maintaining the informal streetscape of Carmel.

Maintaining permeable surfaces and managing runoff onsite also helps to limit the impacts of pollutant runoff. Pollutants commonly found in runoff associated with new development include:

- petroleum hydrocarbons such as oil and grease from vehicles;
- heavy metals;
- synthetic organic chemicals including paint and household cleaners;
- soap and dirt from washing vehicles;
- dirt and vegetation from yard maintenance;
- litter and organic matter;
- fertilizers, herbicides, and pesticides from household gardening or more intensive agricultural land use;
- nutrients from wastewater discharge, animal waste and crop residue; and
- bacteria and pathogens from wastewater discharge and animal waste.

The discharge of these pollutants to coastal waters can cause cumulative impacts such as:

- eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size;



- excess nutrients causing algae blooms and sedimentation increasing turbidity, which both reduce the penetration of sunlight needed by aquatic vegetation that provide food and cover for aquatic species;
- disruptions to the reproductive cycle of aquatic species;
- acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and
- human diseases such as hepatitis and dysentery.

These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes, reduce optimum populations of marine organisms and have adverse impacts on human health. They are particularly important to manage in the vicinity of significant marine resources such as Carmel Bay – an Area of Special Biological Significance and Ecological Reserve.

As summarized above, Carmel's submitted LUP contains a comprehensive set of water quality policies designed to protect and enhance water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. The objectives of the policies are three-fold:

- Protect, enhance and restore wetlands, streams, and groundwater recharge areas.
- Promote the elimination of pollutant discharge, including nonpoint source pollution, into the City's waters through new construction and development regulation including but not limited to site planning, environmental review and mitigation, and permit conditions of approval.
- Promote Best Management Practices to limit water quality impacts from existing development, including septic system maintenance and City services.

With the exception of two areas, -- minimizing impervious surfaces, and managing polluted runoff -- these policies contained in the Carmel LUP provide for the protection and enhancement of water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. Thus, as submitted, with the exception of the policies discussed below, the LUP is consistent with the water quality protection policies of the Coastal Act (30230, 30231).

Modifications

Minimizing Impervious Surfaces

As discussed above, minimizing impervious surfaces is critical to maintaining and protecting water quality in Carmel. As discussed in the Community Character finding, it is also critical to protecting the urban forest and informal streetscape of Carmel – both



essential pieces of Carmel's unique community character.

The City has submitted a water quality policy that requires the new development minimize development footprints and directly connected impervious surfaces, as well as the increase in new impervious surfaces. The LUP also includes a policy to require new development to protect the absorption, purification, and retention functions of natural systems on the site of proposed developments. Nonetheless, given the critical importance of this issue to the protection of water quality, particularly on the smaller, more constrained 4000 square foot lots of Carmel, it is necessary that the LUP have a specific impervious surface limitation for the small lot scenario. Without such specific limitation, it will be more likely that the small lots of Carmel will redevelop over time with more impervious surfaces, and that the cumulative impacts of these surfaces on water quality will be substantial.

Modification 7, therefore, requires that impervious surface on the 4000 square foot lots not exceed 50% or 2000 square feet. Such a limitation allows for a reasonable development envelope on these lots, while assuring that at least half of the available site area is available for natural percolation, as well as for the design of on-site drainage features. As previously discussed, most redevelopment projects in Carmel are resulting in increased impervious surfaces. In the last year, 4 out of 7 proposed redevelopment projects proposed impervious surface coverage greater than 50% (ranging from 55% to 65%). Three other projects, though, were proposed at less than 50%. Thus, it is reasonable and feasible to limit coverage in this way. In conjunction with other proposed limits to protect community character, this limit also provides reasonable development options even with the 1600 square foot single story house. Thus, such a project would have an additional 400 square feet of impervious surface to work with, which might include, for example, a driveway of 150 square feet, and 250 square feet of walkway and outdoor patio surface.

Finally, it should be emphasized that this water quality modification also supports and works with the community character policies of the modified LUP that seek to protect the small scale look and feel, as well as the urban forest resources, of Carmel's residential neighborhoods. The coverage limitation will also assure that the informal streetscapes of Carmel do not gradually convert to hardscapes, with concrete gutters and other drainage features made necessary by increased impervious surfaces the watershed. Given the significant potential for redevelopment in Carmel, and the associated increases in coverage that will occur, even with the proposed limitations of the modified LUP, a specific coverage limitation is the only mechanism to assure water quality protection over the long run. Therefore, to assure consistency with Coastal Act sections 30230 and 30231, Modification 7 is necessary to require the 50% coverage limit on the 4000 square foot lot.

Managing Polluted Runoff

The application of appropriate design goals for sizing BMPs is critical to the successful



function of post-construction treatment Best Management Practices (BMPs) in removing pollutants in stormwater to the maximum extent practicable,. The majority of runoff is generated from small storms because most storms are small. Additionally, stormwater runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small more frequent storms, rather than for the large infrequent storms, results in optimal BMP performance at lower cost .

The Commission finds that sizing the proposed post-construction structural BMPs to accommodate the stormwater runoff from the 85th percentile storm event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs). Therefore, the Commission requires that the proposed post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate and filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. As submitted, the City of Carmel has not provided a specific design goal for BMPs, although it does have a policy generally addressing the treatment and filtering of runoff. Therefore, to assure consistency with Coastal Act sections 30230 and 30231, Modifications 60 and 61 are necessary to incorporate the 85th percentile design goal into submitted policies P9-348 and P9-356.

Conclusion

As modified above, the Carmel-by-the Sea LUP includes a comprehensive and adequate set of policies to address water quality. Therefore, the Commission finds that the LUP water quality policies as modified are consistent with Coastal Act sections 30230 and 30231.

G. Environmentally Sensitive Habitat

Coastal Act Sections 30107.5, 30231, and 30240 define ESHA and afford protection of such areas and their associated biological productivity, and state:

Section 30107.5 *Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Section 30231. *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment,*



controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240. *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Additional Section 30233 in part provides wetland protection as follows:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:...

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

Although the City of Carmel-by-the-Sea is largely built out over most of its acreage, it does contain some areas of environmentally sensitive habitats. The proposed Land Use Plan re-submittal does an adequate job of ensuring that ESHA is protected pursuant to the Coastal Act policies.

First, the Land Use Plan identifies known ESHA in the City. The introduction to the Coastal Resource Protection chapter (pages 83 –92) and Appendix E: ESHA Study map describes the City's ESHAs including Monterey pine forest, wetlands, riparian forest, wet meadow, and coastal terrace prairie, and known occurrences of special-status plant and wildlife species, including Hickman's onion, and Monterey dusky footed woodrat. These are located in Pescadero Canyon, Mission Trails Park, and Carmel beach. The Commission notes that although Monterey Pine is identified as ESHA, it is not identified as a Special Status Species. This is apparently because when Appendix



E was writing in 1995, it did not yet have that status. Now it is universally recognized as a Special Status Species (CNPS 1B, Federal Species of Concern).

Second, the Land Use Plan provides for identification of additional ESHA in the future (Policies G9-22; P9-256), and also makes it clear that the maps show just currently designated ESHA (page 84).

Third, the Land Use Plan provides for protection of ESHA from most new development. Most of the ESHA is designated "Open Space." Public recreational and cultural uses and activities that are compatible with the natural resources are allowed (page 29). Policy 9-256 mimics Coastal Act language to "protect environmentally sensitive habitat areas against any significant disruption of habitat values. Only uses dependant upon those resources shall be allowed." Additionally, the Land Use Plan provides many very specific management measures for the three main ESHA areas to ensure that the public development is compatible with resource protection.

Private lots in ESHA are allowed limited single family development to address Constitutional takings issues (Policy P9-323). However, the Land Use Plan also provides for transfer of development credits (Policy P9-313) and/or public acquisition programs (see policy citations below) to hopefully prevent the remaining private ESHA parcels from developing.

In addition to the noted open space areas, Monterey pine (and other) trees occur throughout the City. The Land Use Plan contains numerous policies designed to maintain these trees (through not cutting them, appropriate pruning, avoidance of root damage, and other measures) and planting new ones. Appendix D is a detailed Forest Management Plan which covers the entire City.

Fourth, the Land Use Plan provides for buffers to ESHA consistent with Section 30240b. One-hundred foot buffers to riparian areas for chemical applications are established (Policy P9-315), as is a minimum 50 foot development buffer of Pescadero Creek (Policy P9-323). The ESHA appendix further indicates that a 100 foot buffer is recommended for Pescadero Creek (page 5-11 of Appendix ESHA Study) and mitigation measures are required for adjacent development (page 5-11 of Appendix ESHA Study). The Land Use Plan also commits to a program of notifying residents adjacent to ESHAs of protective measures (Policy P9-317). Elsewhere, a 30 foot ESHA buffer is required (Figure 9.7; page 5-24 of Appendix ESHA Study), including specifically a 30-foot vegetation buffer along the perimeter of Mission Trail Nature Preserve (Policy P9-321).

Finally, the Land Use Plan provides for many maintenance, rehabilitation, and improvement measures to ensure that ESHA remains vibrant. Examples of such measures include restoring native dune habitat (Policies P-9-181; P9-329), controlling invasive non-natives (Policy P-9-182), pruning so as not to disturb nesting birds (Policy P9-240). Almost all ESHA is within City owned land and the cited policies and others represent a commitment to maintain the City's ESHA. Furthermore, several policies



(e.g., O9-35, P9-199, O9-46, P9-310) commit the City to acquiring additional existing or potential habitat areas.

In conclusion, the sum total of cited and related policies will ensure protection of ESHA consistent with the cited Coastal Act policies.

However, there are two structural problems with the Land Use Plan ESHA related policies. Appendices A-1 through A-4 of the Forest Management Plan contain outdated ordinance references. These need to be evaluated in the context of the Implementation Plan and can not be certified at this time. Section IV of the Forest Management Plan repeats policies of the Coastal Resources chapter, but fails to update all those that reference the City Forester (as opposed to the Forest, Parks, and Beach Director). Therefore, modifications (see Modification 62 and 63) are necessary to correct and update these deficiencies. If so modified, the Land Use Plan will be fully consistent with Coastal Act ESHA policies.

H. California Environmental Quality Act (CEQA)

Section 21080.9 of the Public Resources Code (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with a Local Coastal Program (LCP). Instead, certification of an LCP by the Coastal Commission is subject to the requirements of CEQA. The Coastal Commission's regulatory program involving the preparation, approval and certification of local coastal programs has been certified by the Resources Agency under Public Resources Code Section 21080.5 as the functional equivalent of CEQA review. As a result of this certification, the Coastal Commission is exempt from the requirement of preparing an EIR in connection with a local coastal program. As set forth above, the Commission finds that the Carmel-by-the-Sea Land Use Plan as modified conforms with the Coastal Act policies regarding protection of the environment. The Commission finds that approval of the modified Land Use Plan will not result in significant adverse environmental impacts within the meaning of CEQA. The Commission further finds that there are no feasible alternatives or additional mitigation measures that would substantially lessen any significant adverse impact on the environment from approval of the Land Use Plan as modified.



CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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2/17/03



February 13, 2003

TO: Commissioners and Interested Persons

FROM: Charles Lester, District Director
Diane Landry, District Manager
Rick Hyman, Deputy Chief Planner
Mike Watson, Coastal Planner

RECORD PACKET COPY

SUBJECT: **CITY OF CARMEL-BY-THE-SEA: LAND USE PLAN RE-SUBMITTAL (3rd)**. For public hearing and Commission action at its meeting of March 6, 2003 to be held in San Luis Obispo at the Embassy Suites Hotel, 333 Madonna Road, San Luis Obispo, CA 93405.

SYNOPSIS

DESCRIPTION OF THE SUBMITTAL This is the Executive Director's Staff Report and Recommendation on the City of Carmel-by-the-Sea Local Coastal Program (LCP) Land Use Plan (LUP). This is the third re-submittal of the Land Use Plan. The previous iterations were prepared in the early 1980's. The current submittal is an entirely new compilation of documents and policies developed over the last several years and consists of three main chapters and six appendices. It was submitted on December 20, 2001, but could not be filed due to a lack of some supporting documentation. Meanwhile Coastal staff worked with City staff on issues raised by the submittal. The City Council passed and submitted an amended version of the Plan on November 12, 2002. The standard of review for the land use plan is Chapter 3 of the California Coastal Act. The Commission opened the hearing on the Land Use Plan at its December 2002 meeting. After receiving public comment, the item was continued to allow City and Coastal staff an additional opportunity to resolve outstanding issues. The City has also forwarded a companion Coastal Implementation Plan that is not yet filed and will be considered at a later date.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission hold a public hearing and take the following actions for the City of Carmel-by-the-Sea Land Use Plan: First staff recommends Denial of the Land Use Plan as resubmitted. Then staff recommends approval if the re-submittal is modified. The City has six months to accept the modifications or the re-submittal stands denied.

**California Coastal Commission**

The recommendation for denial of the LUP is based on inconsistencies of the re-submittal with several Coastal Act policies: those requiring scenic and community character protection, providing for public access and recreation, protection of water quality, shoreline hazards, ESHA, and ensuring that development is commensurate with the level of public services (in this case, water) available.

The recommendation for Certification of the Land Use Plan contains Suggested Modifications to address each of the noted deficiencies as discussed below.

Meetings between Commission and City staff have resulted in minor changes to the recommended modifications of staff's November 21, 2002 report and the provisional acceptance by the City of all but four Suggested Modifications. The City has agreed to provisionally accept (pending formal City Council action) modifications 1-6, 9-27, 29-65, and 67-70. The City has not agreed to Modifications 7, 8, 28, and 66. The unresolved issue areas concern residential building intensity, site coverage, preferential parking, and water quality.

SUMMARY OF ISSUES

Community Character:

The proposed land use plan contains several policies designed to ensure that Carmel-by-the Sea's unique community character is retained. Over the years Carmel's community character has changed significantly, as the community has redeveloped. Through the permit review process, and this LCP review, the Commission has identified specific ways that the character is changing including increasing home size, increased tree removal, greater lot coverage, less compatible designs, and loss of potential historic structures. Although the proposed land use plan has several policies that address each of these elements of community character, they are somewhat general, non-directive, and in some cases permissive. If the Land Use Plan were approved as submitted, community character would not be protected.

Therefore, staff recommends that modifications be adopted to bring the LUP into conformance with Chapter 3 of the Coastal Act. These modifications in large part add a series of design objectives to the land use plan that are based primarily on the City of Carmel-by-the-Sea's own Designs Tradition document. While application of these modified policies will still leave considerable discretion to the City decision-makers on matters of scale, siting, and design, it will also better ensure that new development fits within the City's existing community character.

The Land Use Plan has a series of policies designed to protect Carmel-by-the-Sea's historical structures, which are a significant component of the City's overall community character. Generally, these policies define what is historic and limit the amount of alterations that could occur to these structures. However, the Land Use Plan is deficient in describing key components of the identification process and in ensuring that all identified resources are subject to the appropriate regulatory policies, thereby, not



assuring that all significant historical structures will be protected. Therefore, modifications are suggested with regard to the Historical Preservation Board, the Carmel Inventory of Historic Resources, the City's Historic Context Statement, the site inspection process, the California Register of Historic Resources criteria, and the development review process.

Public Access and Recreation:

The proposed Land Use Plan provides a good description of the various public access and recreational and visitor-serving opportunities available in Carmel. Carmel-by-the-Sea is a popular visitor destination with a spectacular white sandy beach, bluff-top pathway, vibrant downtown shopping area, numerous overnight accommodations, and picturesque streets and residences. In general, the Land Use Plan policies call for protecting these facilities, and access to them, as well as for new improvements. However, staff has identified three deficiencies with the policies that would have adverse implications for public access and visitor-serving facilities. First, the land use plan places significant restrictions on beach parking in the evening hours, thereby depriving visitors of a way to be able to conveniently access the beach. Second, the land use plan does not address proposed abandonment of a shoreline street that could provide public access. Finally, the land use plan does not address retention of lower cost visitor serving facilities. Therefore, staff is recommending modifications to increase hours of available parking, to fully mitigate street abandonments, and to retain lower cost visitor opportunities.

Hazards

The proposed land use plan generally addresses coastal hazard issues in conjunction with shoreline policies. This is appropriate because, for the most part, coastal hazard issues within Carmel are predominantly shoreline related (including preserving Carmel Beach and the shoreline environs consistent with the established character and aesthetic there). The policies propose a series of analytical studies to allow the City and the Commission to better understand the interplay of natural shoreline processes with the inland urban development, including the seawalls and revetments that cover much of the Carmel's back beach shoreline. Additional policies are proposed that are designed to describe the circumstances under which shoreline armoring is allowed and how to manage the overall shoreline area. The intent of the proposed policies is to preserve and enhance the Carmel Beach shoreline area to ensure that this public access jewel remains in place and retains its charm for current and future generations to enjoy.

The submitted LUP generally responds to Coastal Act hazard policies, but it isn't entirely consistent with the Act in each case. There is also a lack of clarity and some internal inconsistency within the proposed policies that could lead to confusion when the LUP is implemented in the future. Such confusion would be at the expense of the



4 | City of Carmel LUP submittal (CML-LUP-SUB-R3) stf rpt2.13.03.doc

coastal resources it is designed to protect. Therefore, staff is recommending modifications designed to clarify the contextual background, the range of information necessary to adequately understand Carmel Beach shoreline dynamics, the types of armoring projects that may be allowed in the future (and the types of measures necessary to ensure that they are consistent with the character of the beach area), and the measures necessary to preserve the beach area in a hazards context.

Public Works

The proposed land use plan generally adequately describes the City's public infrastructure and offers policies for its future improvements and maintenance. However, the City of Carmel-by-the-Sea is in an area with severely limited water supplies and the proposed policies do not adequately address this situation in a manner consistent with the Coastal Act. Therefore, staff is recommending modifications to protect coastal priority uses, ensure development applications are complete with regard to available water sources, and prohibit individual private water sources that are not publicly managed.

Other Issues

By and large the proposed Land Use Plan adequately addresses issues of archaeological resources, ESHA, and water quality protection. There are proposed policies for identification and preservation of archaeological sites and environmentally sensitive habitats. The City also commits to a number of actions to actively manage and improve its habitat areas. Similarly, there are proposed policies to address storm water runoff in a manner to prevent water pollution, ultimately of Carmel Bay. There are two omissions from having a comprehensive set of water quality policies regarding limiting site coverage and meeting the 85th percentile storm event. There are also a few updates that need to be made to the ESHA discussion. Therefore, staff is recommending modifications to add to the water quality policies and update the ESHA policies.

In terms of other Coastal Act topics, they are not relevant and thus not discussed in this report. The City of Carmel-by-the-Sea lacks any agricultural land, timberlands, boating facilities, dams, coastal-dependent industries, or major energy plants.

PUBLIC PARTICIPATION SUMMARY

The noted issues and others of more local concern were debated in many public forums. The City has provided a detailed summary of public participation available for review at the Commission offices. As described, the Land Use Plan is a compilation of and based on material from different documents. Many of these were subject to local hearings. The City Council, Planning Commission, and other City committees held at least a combined 140 public hearings on various aspects of the Plan.



ADDITIONAL INFORMATION

For further information on the Land Use Plan or the staff report, contact Mike Watson at (831) 427-4863. Correspondence should be sent to the Santa Cruz district office at 725 Front St., Ste. 300, Santa Cruz, CA 95060.

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I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS

Staff recommends adoption of the following resolutions:

Resolution I. (Resolution to certify the Carmel-by-the Sea Land Use Plan as submitted)

Staff recommends a **NO** vote on the motion below. Failure of this motion will result in denial of certification of the land use plan as submitted and adoption of the following resolution and findings. The motion passes only upon an affirmative vote of a majority of the appointed Commissioners.



Motion #1: *I move that the Commission certify the Land Use Plan for the City of Carmel-by-the-Sea Local Coastal Program as submitted.*

Resolution to Deny Certification: *The Commission hereby denies certification of the Land Use Plan of the City of Carmel-by-the-Sea Local Coastal Program for the reasons discussed below and because the City of Carmel-by-the-Sea Land Use Plan fails to meet the requirements of and does not conform to the policies of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act; is not consistent with applicable decisions of the Commission which shall guide the local government in its future actions under Section 30625(c) of the Coastal Act; and does not meet the requirements of Sections 21080.5(d)(2)(i) of the California Environmental Quality Act, because there are feasible alternatives or mitigation measures available that would substantially lessen any significant adverse impact that the Land Use Plan may have on the environment.*

Resolution II. (Resolution to certify the City of Carmel-by-the-Sea Land Use Plan if modified)

Staff recommends a YES vote on the motion below. Passage of this motion will result in certification of the Land Use Plan with the suggested modifications and adoption of the following resolution and findings. The motion to certify with the suggested modifications passes only upon an affirmative vote of a majority of the appointed Commissioners.

Motion #2: *I move that the Commission certify the Land Use Plan as submitted by the City of Carmel-by-the-Sea, if modified as suggested by the following modifications in this staff report.*

Resolution to Certify the Land Use Plan if Modified: *The Commission hereby certifies the Land Use Plan of the City of Carmel-by-the-Sea Local Coastal Program subject to the following modifications, and adopts the findings set forth below on the grounds that, if modified as suggested below, the Land Use Plan will meet the requirements of conformance with the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act; the Land Use Plan will contain a specific access component as required by Section 30500(a) of the Coastal Act; the Land Use Plan will be consistent with applicable decisions of the Commission that shall guide local government actions pursuant to Section 30625(c); and certification of the Land Use Plan will meet the requirements of Section 21080.5(d)(2)(i) of the California Environmental Quality Act, as there would be no further feasible mitigation measures or feasible alternatives which could substantially lessen significant adverse impacts on the environment. The suggested modifications to the*



submittal are necessary to achieve the basic state goals set forth in Section 30001.5 of the Coastal Act.

The Commission finds that if the City of Carmel-by-the-Sea adopts and transmits its revisions to the Land Use Plan in conformity with the suggested modifications, then the Executive Director shall so notify the Commission.

II. SUGGESTED MODIFICATIONS

The Commission suggests that the following changes to the submitted City of Carmel-by-the-Sea Land Use Plan are necessary to make the requisite findings. If the local government accepts the suggested modifications within six months of Commission action, by formal resolution of the City Council, the Land Use Plan will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

COMMUNITY CHARACTER

- 1. Add the following new policy under the Residential Development Objective O9-3 on page 36.**

Each site shall contribute to neighborhood character including the type of forest resources present, the character of the street, the response to local topography and the treatment of open space resources such as setbacks and landscaping. It is intended by this policy that diversity in architecture be encouraged while preserving the broader elements of community design that characterized the streetscape within each neighborhood.

Site improvements shall be compatible with, and sensitive to, the natural features and built environment of the site and of the surrounding area. Design solutions should relate to and take advantage of site topography, vegetation and slope. Designs shall recognize the limitations of the land and work with these limitations rather than ignoring them or trying to override them.

- 2. Add the following new policy under the Residential Development Objective O9-3 on page 36.**

Residential designs shall maintain Carmel's enduring principles of modesty and simplicity and preserve the City's tradition of simple homes set amidst a forest landscape. Buildings shall not present excess visual mass or bulk to public view or to adjoining properties. Buildings shall relate to a human scale in their forms, elements and in the detailing of doors, window, roofs, and walkways. Oversized design elements make structures appear dominating and monumental. This out-of-scale character represents a poor fit to the human form, vitiates the more intimate, rural charm and village character of Carmel-by-the-Sea and should be



avoided.

The design of structures shall be coordinated with open space to enhance the park-like environment of the City. Open space should be distributed around buildings to provide visual relief from structural bulk and a distinct separation from buildings on adjacent sites. Designs shall coordinate structural elements with landscaping to achieve a pleasing overall site design.

3. Add the following new policy under the Residential Development Objective O9-3 on page 36.

Prior to submittal of design plans for new development that will alter the building footprint, add a second story or involve excavation, a site plan shall be prepared by a qualified professional to document topography, drainage features, existing trees and structures, street edge, and existing conditions on adjacent properties. Using this site plan, the City's planning staff and City Forester shall prepare a preliminary site assessment that includes an evaluation of the design character, streetscape attributes, potential historic resources, and forest resources of the block and neighborhood as well as the resource constraints of the site. Submittal of a Forest Enhancement and Maintenance Plan shall be required from project applicants in response to the site assessment. The Plan shall address the impacts of the proposed development on the existing forest conditions of the site. Site Plan designs shall recognize the constraints of the land and work within these limitations. Minimize the extent of excavation and fill on a site to avoid adverse impacts on trees and to ensure that new development follows the natural contours of the site.

4. Add the following new policy under the Residential Development Objective O9-3 on page 36. Maintain and enhance the informal, vegetated, open space character of the City's right-of-way. Trees in the right-of-way shall not be removed to provide parking. With the exception of driveways, installation of new paving in the right-of-way by private property owners is prohibited.

5. Add the following new policy under the Residential Development Objective O9-3 on page 36. Prohibit the removal of significant trees (i.e., as determined by the City Forester) unless it would prevent a reasonable economic use of the site or pose a threat to health and safety. Locate buildings and other site structures to avoid removal and pruning and otherwise minimize damage to existing significant trees. Avoid impacts to trees by avoiding/minimizing impacts to the root protection zone identified by the City Forester during the preliminary site assessment. Establish continuity of landscape elements throughout each neighborhood. Replace trees removed for construction with appropriate trees of the urbanized forest. Require that they be nurtured until well established.

6. Add the following new policy under the Residential Development



Objective O9-3 on page 36. All demolitions, rebuilds, remodels, and substantial alterations shall be consistent with the following findings:

- The design uses simple/modest building forms and a limited number of roof planes, and a restrained employment of offsets and appendages consistent with the City's Design Objectives.
- Mass of the building relates to the context of other homes in the vicinity.
- The development is similar in size, scale, and form to buildings on the immediate block and neighborhood.
- The development does not require removal of any significant trees unless necessary to provide a viable economic use of the property or protect public health and safety. All buildings and structures will be setback a minimum of 6 feet from significant trees.

7. Add the following new policy under the Residential Development Objective O9-3 on page 36. Limit above grade floor area on single lots (i.e., 4,000 square feet) to a maximum of 1,600 square feet. Projects with less above grade square footage shall be preferred. Structural coverage shall not exceed 40% of the site. Total site coverage (structural and other impermeable coverage) on 4,000 square foot lots shall not exceed 50% of the site. Locate open space so that it visually links with adjacent properties.

8. Revise description of Land Use Designations for Single-Family Residential on page 29, LAST TWO SENTENCES; Above-ground building intensity in this area may not exceed 45 40 percent floor area ratio and all development requires at least 45 50 percent open space. Proportionately less floor area and greater open space are required on ~~larger lots~~ greater than 4,000 square feet.

HISTORICAL PRESERVATION

9. Add the following new text to page 23, END OF 1ST PARAGRAPH; The Carmel Inventory of Historic Resources shall be updated on an ongoing basis as new resources are surveyed. Properties not yet surveyed shall be evaluated on a case-by-case basis as the need arises (e.g., including for all site assessments, etc.).

10. Add the following new policy under the Historic Preservation Objective O9-13 on page 44. All resources previously surveyed and evaluated by the City that meet the criteria established by the City's LCP shall as of the date of certification of the Carmel-by-the-Sea LCP, be deemed included in the Carmel Inventory of Historic Resources.

11. Revise policy P9-61 on page 44. Maintain an Historic Context Statement that documents the historic periods, themes, events, people, architects and builders who



have contributed to the cultural and developmental history of the City. Use the Historic Context Statement to identify, document and understand the importance of historic resources. Exclusion from this document shall not preclude a finding of significance for any resource. The Historic Context Statement shall be updated at least every five years. Updates shall be submitted to the California Coastal Commission as LCP amendments. ~~periodically to remain current~~ (See Appendix F: Historic Context Statement, Carmel-by-the-Sea, 1997).

12. Revise policy P9-62 on page 45. Apply California Register of Historical Resources (California Register) criteria¹ ~~as the framework~~ to identify and document all historic resources. Use the Historic Context Statement to interpret the California Register criteria in determining the significance of Carmel's historic resources.

13. Revise policy P9-63 on page 45. Establish procedures for the Historic Preservation Board to add historic resources to the Carmel Inventory based on recommendations from a qualified professional, as part of the City's ongoing survey process. To qualify for listing in the Carmel Inventory, historic resources shall meet at least one of the California Register criteria, shall be representative of at least one theme included in the Historic Context Statement and shall retain substantial integrity². Integrity (association, feeling, setting, location, design, materials and workmanship) shall be documented by comparing the existing condition of the resource with the original building plans or early photographs or other substantial evidence (e.g. literature review, architectural files, land records, Sanborn maps, etc.) and/or by physical inspection by a qualified historic preservation professional.

14. Revise policy P9-64 on page 45. To qualify for listing in the Carmel Inventory, an historic resource eligible under ~~for the California Register under just criterion #3 only,~~ ~~shall be required to meet a higher standard for integrity than is required for resources qualifying under criteria #1, #2 or #4,~~ and shall: (1) have been designed and/or constructed by an architect, design/builder or contractor whose work has contributed to the unique sense of time and place recognized as significant in the Historic Context Statement; (2) have been designed and/or constructed by. ~~The work of a previously unrecognized architect, design/builder or contractor may be found historically significant only when~~ if there is substantial, factual evidence that the architect, designer/builder or

¹ The California Register has four criteria for historic significance. These (1) are associated with events that have made a significant contribution to broad patterns of local or regional history or the cultural heritage of California or the United States; or (2) are associated with the lives of persons important to local, California or national history; or (3) embody the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values; or (4) has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.

² Integrity is based on why a property is significant. Ultimately, the question of integrity is answered by whether or not the property retains the identity for which it is significant. The steps in assessing integrity are (1) defining the physical features that must be present for a property to represent its significance, (2) determining whether these features are still visible enough to convey significance, (3) determining whether the property needs to be compared to other similar properties to understand its significance and (4) determine which aspects of integrity are vital if the property is to qualify as a resource (adapted from the National Register of Historic Resources, Bulletin #15).



contractor contributed to one or more of the historic contexts³ of the City to an extent consistent with other architects, design/builders or contractors identified within the Historic Context Statement; (3) be a good example of an architectural style or type of construction recognized as significant in the Historic Context Statement; or (4) display a rare style or type for which special consideration should be given. ~~All such determinations shall be made by the Planning Commission based on recommendations from the Historic Preservation Board.~~

15. Delete policy P9-66 on page 46. ~~Properties that fail to meet the above-established criteria for inclusion in the Carmel Inventory shall not be treated as historic resources under this section or under provisions of the California Environmental Quality Act.~~

16. Revise policy P9-67 on page 46. Establish procedures for the ~~Planning Commission~~ Historic Preservation Board, based on recommendations from the ~~Historic Preservation Board~~ qualified professionals, to add or remove historic resources from the Carmel Inventory based on ~~incorrect~~ substantial evidence (e.g., incorrect evidence, invalid analysis, or loss of integrity of the identified historic resource). An historic resource listed on the Carmel Inventory shall be presumed historically significant and shall not be removed unless a ~~preponderance of the~~ substantial evidence demonstrates that it is not an historic resource.

17. Revise policy P9-70 on page 47. Use the Carmel Inventory to identify historic resources for purposes of required coastal development permit and California Environmental Quality Act (CEQA) review of proposed projects. Historic resources on the Carmel Inventory shall have a presumption of significance pursuant to CEQA § 21084.1 and shall be treated as historical resources under CEQA and the Carmel LCP. Failure to include a property on the Carmel Inventory shall not preclude a future determination that it qualifies as an historic resource based on new evidence.

18. Change policy P9-79 on page 48 to a Goal and revise as follows: Protect and enhance historic resources. Ensure that City ordinances, development review processes and administrative policies support, facilitate and coordinate with preservation activities.

19. Change policy P9-80 on page 48 to an Objective and revise as follows: Incorporate historic preservation principles into the City's project review processes. Avoid and minimize potential impacts on historic resources when developing and

³ An historic context is a body of information about historic properties organized by theme, place and time. A single historic context describes one or more important aspects of the development of an area relating to its history, architecture, archaeology and culture. A context may be based on one or a series of events, patterns of community development, or associations with the lives of a person or group of persons that influenced the destiny and character of a place or region (from National Register Bulletin #24). Currently there are five themes developed in Carmel's Historic Context Statement. They are: (1) Prehistory and Hispanic Settlement, (2) Economic Development, (3) Government, Civic and Social Institutions (4) Architectural Development in Carmel and (5) Development of Art and Culture.



enforcing land use, design review, zoning, building code, fire code, environmental review, and other City regulations.

20. Add new text to page 21 after the first full paragraph: When evaluating resources for potential historic value, the threshold of 50 years old is often used by historic resource professionals as a trigger that such a review is needed. The passing of fifty years provides sufficient time for evaluators to determine whether a particular resource may have become significant in a particular context. Of course, it is also important that decision makers have the discretion and ability based on the recommendation of a qualified professional to determine that resources less than 50 years old are historic, as sometimes a younger resource does rise to a level of historic significance. The Carmel LCP provides the appropriate policies and procedures to allow evaluation of potential historic resources, whether older than 50 years or not.

21. Revise policy P9-81 on page 48. ~~Implement~~ Use the Secretary of the Interior's Standards and Guidelines as the standard of review for development projects affecting historic resources. ~~The City shall retain qualified professionals to~~ Historic Preservation Board shall review proposed exterior changes to historic resources to determine whether they are consistent with the Secretary of Interior's Standards and Guidelines Standards.

22. Revise policy P9-82 on page 49. Prohibit the demolition of all historic resources and prohibit changes to historic resources that are inconsistent ~~conflict~~ with the Secretary of Interior's Standards and Guidelines unless it is determined through environmental review that there are no feasible alternatives ~~alternatives consistent with the Secretary of Interior Standards are not feasible~~. When completing environmental review of any project affecting an historic resource, require exploration of one or more alternative designs that would be consistent with the Secretary of the Interior's Standards and Guidelines Standards.

23. Revise policy P9-83 on page 49. ~~Apply the~~ Implement Design review guidelines to ensure preservation, protection, enhancement, rehabilitation, reconstruction, and perpetuation of existing structures of historic significance in a manner consistent with the character of the village. Such criteria shall include, but not be limited to, architectural design, size, scale, height, site coverage, spatial relationships, window, dormers, appurtenances, proportion and placement of improvements on the parcel, and landscaping, including planting or removal of vegetation.

24. Add new policy under the Historic Preservation Goal G9-5 on page 44. Establish a Historic Preservation Board with powers and duties to administer the City's Historic Preservation Program. Establish requirements for Board members to demonstrate historic knowledge of Carmel, knowledge of history, architecture, archaeology, or past experience with preservation.

25. Add new Historic Preservation Goal on page 50. Provide incentives for property



owners to preserve and rehabilitate Historic Resources.

26. Add new policy to Implement new Historic Preservation Goal on page 50. Pursue and support the use of appropriate federal, state, local, and private grants, loans, tax credits, and tax relief. Develop or assist financial, technical, and legal assistance programs to encourage or assist with rehabilitation and maintenance. Participate in the State and Federal preservation process and programs. Make application to the State for becoming a Certified Local Government (CLG), which enables the City to receive technical training.

VISUAL/COMMUNITY CHARACTER

27. Add the following text to page 5, end of the second paragraph: The incorporated City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics.

PREFERENTIAL PARKING

28. Revise policy P9-134 on page 68. Provide convenient and free public beach parking from 5:00 a.m. to until ~~10:30 p.m.~~ 12:00 midnight daily. Parking outside of these hours along Scenic Road and at the Del Mar parking lot shall be limited to residents and guests with a resident's parking permit.

DEL MAR ROAD ABANDONMENT

29. Revise policy P9-101 on page 64. Improve-pedestrian circulation between the north end of the Beach Bluff Pathway at Eighth Avenue and the beach facilities at Ocean Avenue and the Del Mar Avenue parking lot. ~~as part of the Del Mar and North Dunes Master Plan.~~

29a. Add new policy under the Beach Access Objective 09-16 on page 63. Abandonment or transfer of any public roadway or real property lying between the first public road and the sea shall not occur without reserving the right of public access over such real property unless an alternate route is made available to the public granting equal or greater public access to the Pacific Ocean in the same immediate vicinity.

VISITOR-SERVING

30. Add the following new policy under the Visitor Accommodations and Recreation Services Objective 09-26 on page 70: Lower cost visitor and recreational facilities shall be protected and encouraged and where feasible, provided. Developments providing public recreational opportunities are preferred.



HAZARDS

31. Add Coastal Act Section 30253(1) and (2) into the list of relevant policies in the Coastal Resource Protection Section on page 75 of the LUP:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

32. Revise Coastal Resource Protection section background as follows:

- a) **Pages 76-77:** "Carmel, like..., appears to derive most of its sand..."
- b) **Page 77, last paragraph:** "If left unmanaged, the bluffs surrounding Carmel Bay would progressively erode from the impact of winter storm waves, and from surface drainage, and other steady and episodic erosion processes."
- c) **Pages 77-78:** "Erosion of Carmel's bluffs is quite variable along the shoreline and is includes both steady erosion and episodic events."
- d) **Pages 78, second paragraph:** Change the reference to Figure 9.7a to Figure 9.6.a.

33. The "Seawalls and Retaining Walls" bullet on page 78 shall be changed as follows:

~~"...Thus far, it is unclear whether the accelerated loss of beach sand that is often associated with seawall construction does not appear to be is occurring along Carmel Beach. This may be due to the unique natural sand transport process that is characteristic of the Carmel shoreline or it may be due to the City's annual sand redistribution that artificially moves beach sand from the lower beach to the upper beach to cover revetments and to restore access at the foot of Ocean Avenue. One recent study indicates that the beach has actually been decreasing in width since 1949.⁴ Further long-term study of beach levels is warranted to provide the best management for Carmel's beach...."~~

34. Replace LUP Figure 9.6a on page 83 with SMP Figure 8, and rename it as LUP Figure 9.6a.

35. Change title and legend of LUP Figure 9.6b on page 83 to "Sand Redistribution Sites."

36. Revise Policy P9-158 on page 98 as follows: Obtain and maintain an accurate digitized map of the Carmel shoreline to develop the City's beach management and

⁴ A recent article in the International Journal of Marine Geology reported that the beach width at Carmel Beach has narrowed noticeably in the last 40 years (C.D. Storlazzi, M.E. Field / Marine Geology 170 (2000) 289 – 316).



maintenance policies. Analyze historic beach trends using aerial photo analysis and other available tools. Update topographic information at least every 5 years and analyze shoreline changes to facilitate early identification of erosion hot spots, sand sediment losses/gains, migration of engineered revetments, and other long-term impacts.

37. Revise Policy P9-159 on page 98 as follows: Place a series of permanent surveyed benchmarks inland of the bluffs running the length of Carmel Beach. The surveyed benchmarks shall be described in relation to National Geodetic Vertical Datum (NGVD) and identified through permanent markers, benchmarks, survey position, written description, reference numbers, et cetera to allow measurements to be taken at the same location in order to compare information between years.

38. Revise Policy P9-161 on page 98 as follows: Protect public access, Scenic Road, and the aesthetic character of the coast by maintaining existing seawalls and engineered revetments ~~and by installing new protective structures when warranted.~~ When any existing seawalls or revetments need to be replaced or substantially reconstructed, review seawall and revetment design alternatives, as well as other beach management strategies and determine the best balance among objectives for access, aesthetics and protection of coastal resources (biological, geological, and recreational). Protect the natural character and features of the Del Mar and North Dunes by prohibiting the construction of any new shoreline protective structures unless required ~~for public safety, access or habitat preservation to protect existing structures in danger of erosion.~~ For the beach and shoreline area ~~south of Eighth Avenue,~~ only consider the installation of new protective structures after careful review of alternatives and when ~~found to be warranted required to for protection of existing structures in danger of erosion and access amenities facilities from erosion risks.~~ Mitigate the impacts of shoreline protective structures on visual quality and beach dynamics using landscaping, sand management and prudent engineering.

39. Revise Policy P9-162 on page 99 as follows: Construct new shoreline armoring in areas previously unprotected only when required to protect existing structures in danger of erosion ~~or wave action~~ and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Require any approved structures to include native landscaping (screening), be visually compatible with existing seawall designs, address drainage, incorporate visual mitigation, sand coverage for revetments, and golden granite facing for seawalls.

40. Add two new policies following P9-162 on page 99 as follows: Modification of existing shoreline structures shall adhere to the same standards for establishing need, obtaining permits, as well as landscaping, visual impacts, drainage and design as new seawall projects.

Any project (including but not limited to repair, maintenance, expansion, modification, or replacement) involving the shoreline armoring structure that extends along the Carmel



Beach bluff southeast from the mouth of Pescadero Creek shall require the facade to use materials that are complementary to shoreline armoring structures located along the Carmel Beach bluff south of 8th Avenue.

41. Revise Policy P9-165 on page 99 as follows: Evaluate the storm-water outfall system for purposes of reducing impacts to the beach environment. Consider options to modify and/or remove outfalls from the beach and replace or retrofit storm drains with filters or treatment devices to reduce impacts on the shoreline environment.

42. Revise Policy P9-167 on page 99 as follows: Prohibit any construction of substantial or permanent structures on the beach or within Carmel Bay except where required to protect existing structures in danger from erosion. Require design review for any structure proposed and minimize conflict with the scenic and aesthetic character of the shoreline environs through such review.

43. Revise Policy P9-169 on page 100 as follows: Prohibit the placement of loose rock on the beach except where such rock is placed as part of a revetment allowed to protect an existing structure in danger from erosion. When any part of a rock revetment migrates from an engineered structure reposition it to maintain engineering stability or remove it from the beach.

44. Revise Policy P9-170 on page 100 as follows: Protect the flat area/tidal zone of the beach for recreational use and to the extent feasible, avoid shoreline protective structures that reduce the amount of beach area available for public recreation.

45. Add new policy following P9-170 on page 100 as follows: Evaluate the potential to replace existing revetments with faced vertical seawalls or seawalls designed to mimic the natural bluff face, to reduce sandy beach area coverage and the need for sand bulldozing. All replacement structures must be found compatible with the area's aesthetic qualities. Recognize that physiographic conditions may dictate a better alternative (e.g., when a specific area of the beach is more susceptible to reflected wave energy and consequent accelerated scour).

46. Revise Objective O9-29 on page 100 as follows: Explore alternatives ~~for~~ to maintaining the sand elevation at the foot of Ocean Avenue to ~~facilitate~~ ensure public access and to ~~cover~~ with sand all exposed engineered revetments along the length of Carmel Beach.

47. Revise Policy P9-171 on page 100 as follows: Each spring inspect the volume of sand at locations along the backshore and determine if it is appropriate and timely to reestablish the sand to a higher elevation. The use of heavy equipment is authorized for redistributing beach sand to rebuild the dunes and cover revetments. ~~Minimize impacts on beach encroachment and impacts on public access and protect public safety during this process.~~



48. Revise Policy P9-173 on page 101 as follows: After each ~~ten-five~~ -year period of monitoring beach sand elevations (beginning at ~~2005~~ 2010 after data from 2003, 2005, and 2010 are available), review all available data and make preliminary determinations regarding the effects of seawall structures and sand redistribution activities. If the results of the City's beach monitoring program indicate that the beach has been losing sand over time warranted, investigate options for beach nourishment using offshore deposits or other sources that match Carmel Beach sand to replenish the beach and protect its width. The beach nourishment program shall at a minimum: 1) identify potential sources of beach quality sand; 2) include testing and screening for determining the acceptable quality and quantity of beach material; 3) identify placement locations; 4) establish placement methods and any restrictions on work timing or methods.

49. Revise Policy P9-174 on page 101 as follows: Maintain Carmel Beach as a public recreational resource. If the results of the City's beach monitoring program ~~conclude~~ indicate that the beach has been losing sand over time, develop, implement, and then further monitor and evaluate a beach nourishment program to maintain or increase the available volume of sand.

50. Revise Policy P9-176 on page 101 as follows: Where unavoidable, Mitigate or minimize and mitigate all impacts to both marine and terrestrial resources when performing sand redistribution.

51. Delete Appendix B, the Shoreline Management Plan, from LUP.

52. Add new heading and policy on page 97 as follows:

Hazards Prevention

New development shall minimize risks to life and property, assure stability and structural integrity over the life of the development, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

WATER POLICIES

53. Delete policy P9-36 on page 40: ~~Maintain priorities for water allocations based on the General Plan/Coastal Plan. Give highest consideration to residential uses, including residential lots of records, and to Municipal projects that serve the broader community over other types of uses in the event water supplies are too limited to serve all forms of potential development.~~

54. Replace policy P9-36 with new policy on page 40: Where existing public services including water can accommodate only a limited amount of new development, priority uses, including essential public services, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by services to other



development.

55. Revise policy P9-43 on page 41: Establish priorities for ongoing water use in the event that further reduction of water consumption is required (e.g. during droughts or State-ordered cutbacks). ~~Give highest priority to residential uses and essential services.~~

56. Delete policy P9-42 on page 41: ~~Analyze the potential not increase in water demand that may be generated by any proposed change and/or intensification in land use. Prohibit the approval of any development application if water for the proposed type of project is unavailable within the allocation.~~

57. Add new policy under the Water Resources Objective 09-7 on page 41: Applications for new development shall demonstrate an adequate public (i.e., publicly-managed) water supply (e.g., the Cal-Am / MPWMD system or their successor agencies) to support the proposed development. Private water supplies are prohibited to serve existing and new development.

Applications for new development shall not be filed without a City determination that (1) no new water is required to serve the new development; or (2) there is water available in the City's allocation from the regional supply to support the new development. This determination shall include an evaluation of the proposed development's water demand, based on MPWMD's water unit value system (or equivalent regional system in effect at the time of the determination). All water transfers and corresponding retirements, if any, shall be described and agreed to prior to any City determination.

Prior to the commencement of construction of new development, evidence of water service, in the form of a water use permit from the Monterey Peninsula Water Management District (or successor agency), shall be provided to the City Planning Department.

58. Add new policy under the Water Resources Objective 09-7 on page 41: Prohibit private and public desalination facilities within the City limits.

59. Revise policy P9-40 on page 41: Use appropriate vegetation for all public right-of-ways. Require drought-tolerant plants for at least 75% of the commercial and residential landscaping on each development site. ~~Encourage~~ Require the use of native plants and/or non-invasive drought-tolerant plants adapted to the Central Coast environment in all landscapes plans for new development.

WATER QUALITY

60. Revise Policy P9-348 on page 125. Provide development guidelines and permit conditions ~~which that:~~ limit impervious surfaces and the connection of multiple impervious surfaces; implement simple infiltration techniques throughout drainage areas to efficiently manage storm water; infiltrate runoff into the soil, retain runoff for



slower release and convey runoff slowly through vegetation. ; employ treatment controls to capture and treat the polluted runoff before it enters the city's storm drain system or receiving waters; design structural BMPs in compliance with the NPDES Phase II permit.

61. Replace Policy P9-352 on page 126. All development shall incorporate structural and non-structural Best Management Practices (BMPs). BMPs are methods for controlling, preventing, reducing, or removing typical runoff pollutants. BMPs generally fall into two categories: source control BMPs and treatment BMPs. Source control BMPs are designed to reduce or eliminate the introduction of pollutants into runoff (e.g., regular sweeping/vacuuming of vehicle parking areas). Treatment BMPs are designed to remove pollutants from runoff (e.g., silt fences to trap sediments at construction sites). In order of priority, all development shall: first, limit impervious surfacing and pollutant loading through good site planning; second, reduce pollutant loads through source control; and third, reduce pollutant loads through treatment controls (where appropriate).

Development shall not result in the degradation of coastal waters caused by the introduction of pollutants, or by changes to the landscape that adversely impact the quality, quantity and flow dynamics of coastal waters. Runoff shall not be discharged in a manner that adversely impacts coastal waters.

62. Add new policy under the Water Quality Objective O9-73 on page 126. BMPs shall be incorporated into the project design in the following progression:

- Site Design BMPs (any project design feature that reduces the generation of pollutants or reduces the alteration of the natural drainage features, such as minimizing impervious surfaces or minimizing grading);
- Source Control BMPs (practices that prevent release of pollutants into areas where they may be carried by runoff, such as covering work areas and trash receptacles, practicing good housekeeping, and minimizing use of irrigation and garden chemicals);
- Treatment Control BMPs (a system designed to remove pollutants from runoff including the use of gravity settling, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process).

Site design and source control BMPs shall be included in all new developments. Where the development poses a threat to water quality due to its size, type of land use or proximity to coastal waters (or proximity to a creek, channel or stormdrain system that leads to coastal waters) and the combination of site design and source control BMPs is not sufficient to protect water quality as required by P9-352, treatment control BMPs shall be implemented.



63. Add new policy under the Water Quality Objective O9-73 on page 126. The City shall include a procedure in the Implementation Plan for reviewing all development for impacts to water quality. This procedure shall include:

- A checklist or equivalent tool to help in the review of Coastal Development Permits for potential impacts to water quality. Such a checklist shall, at a minimum, include questions about the management practices proposed to reduce the impact of polluted runoff, area of impervious surface to be created, uses of the development that might generate polluted runoff and proximity of the development to coastal waters, drainage ways that lead to coastal waters or sensitive coastal resources.
- Criteria for determining whether a treatment control BMP will be required (criteria shall include, but are not limited to type of land use, size and type of development, proximity to coastal waters, drainage ways that lead to coastal waters, sensitive coastal resources, etc.).

This review procedure shall identify the potential water quality impacts from the development, and prescribe appropriate site design, source control or treatment control BMPs necessary to address those impacts.

64. Add new policy under the Water Quality Objective O9-73 on page 126. The Implementation Plan shall include a manual of BMPs to guide project design and engineering for development within the Coastal Zone. The City shall either develop the manual or identify an existing BMP manual (e.g., the latest version of the California Stormwater BMP Handbook). BMPs shall be selected to mitigate both construction and post-construction water quality impacts. The manual shall describe specific BMPs, including type, location, size, implementation and maintenance schedules. The manual shall describe the appropriate use of those BMPs to remove specific classes of pollutants. The manual will also provide guidance on how to size treatment control BMPs to meet the Numeric Design Standard.

65. Revise Policy P9-356 on page 126. ~~Post-construction structural BMP's should be designed to treat, infiltrate, or and filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMP's and/or the 85th percentile 1-hour storm event for flow-based BMP's. per the requirements of the City's NPDES permit.~~

Where post-construction treatment controls are required, the BMPs (or suites of BMPs) shall be designed to infiltrate and/or treat the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. The term treatment includes physical, biological and chemical processes such as filtration, the use of bioswales, detention



and retention ponds and adsorption media. The actual type of treatment should be suited to the pollutants generated by the development as indicated in the BMP Manual.

66. Add new Policy on page 126. Under limited circumstances, where the implementation of a treatment control BMP would typically be required to reduce the impacts of a development on water quality, the City may determine that requiring this structural BMP to be sized to the Numeric Design Standard (P9-356) is not feasible. In these cases, the applicant may propose an alternative suite of site design, source control and treatment control BMPs which provide, at a minimum, equivalent protection to that provided by a standard suite of site design, source control and treatment control BMP meeting the Numeric Design Standard

The Implementation Plan shall include a procedure to determine when it would not be feasible to apply the required treatment control BMP(s) designed to meet the Numeric Design Standard and for evaluating whether alternative measures provide equivalent water quality protection. Coastal Development Permit applications that use this alternative shall provide complete explanation of how the proposed project will provide equivalent protection for water quality.

ESHA

67. Revise cited policies P9-218 , P9-220 in Appendix D Forest Management Plan to be consistent with policy P9-218 in the Coastal Resources chapter as follows:

P9-218 Permit the Forest, Parks and Beach Director City Forester to act on requests for the removal and pruning of all trees growing on public and private property.

P9-220 Permit the Forest, Parks and Beach Director City Forester to apply special procedures for tree removal and pruning during emergencies.

68. Delete Municipal Code Reference from the Forest Management Plan Appendix D:

~~A. Municipal Code*~~

~~*: Note these citations to the Municipal Code are illustrative of the Code in effect prior to certification of the Coastal Implementation Plan by the Coastal Commission. Please consult the certified portions of the Municipal Code for the current regulations.~~

69. Re-insert the following Wetland and Riparian Habitat objective into the Mission Trails Nature Preserve Master Plan: Encourage/allow the channelized ditch to revert to a more natural channel in order to enhance the Park's wetlands (riparian forest, wet meadow) and natural character.

70. Revise the Stewardship Program statement on page 10 of the Mission Trails Nature Preserve Master Plan as follows: The ESHA boundaries could not be



extended beyond the Preserve boundaries to include adjacent private land. Habitats do not follow man made area designations.

III. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Background: History of the Local Coastal Program

The City of Carmel-by-the-Sea is located on the Monterey Peninsula and is entirely within the Coastal Zone. It is relatively small (1 square mile approximately) and has a population of roughly 4,081. Against a backdrop of Monterey pine forest, the City fronts Carmel Bay and the world-renown white sandy beach running along its entire, approximate one and one-half mile length. The City is also renowned for the character of its unique early-mid 1900's cottages and architecture.

Carmel first commenced work on its local coastal program in 1978. The first land use plan was submitted in early 1980 and denied by the Regional Coastal Commission on April 14, 1980. The City Council revised the Land Use Plan and resubmitted it on November 26, 1980 with amendments on January 5 and February 2, 1981. The Coastal Commission certified the LUP as submitted in part and denied then certified with suggested modifications in part (private Beachfront area), on April 1, 1981. Again, the City chose not to accept the modifications and to resubmit a new Land Use Plan. This second resubmitted plan was denied and certified with suggested modifications regarding demolitions and historic buildings on April 27, 1984. The City did not accept the suggested modifications. There was a hiatus in work on the local coastal program until 1988 when a new draft was only partially completed, then sidetracked. In the 1990s several documents were prepared on specific topics that have been incorporated as Land Use Plan appendices. Work on the text of the three Land Use Plan chapters recommenced in 2000, in part funded by a Coastal Commission grant. These three chapters are based largely on the City's General Plan, which had been amended over the years. The resulting third re-submittal, consisting of an introduction, the three chapters, and six appendices, is quite different from its early 1980 predecessors.

The document was delivered to the Coastal Commission on December 20, 2001, but could not be filed because not all of the required supporting information was received. In the intervening period City and Commission staff worked closely on modifications to the City submittal. Staff also met with members of the public and participated in two public forums regarding the LCP that were sponsored by the Carmel Preservation Foundation and Carmel Resident's Association. On November 12, 2002 the City Council amended its submittal to incorporate numerous mutually agreed-upon modifications. This amended land use plan re-submittal was filed on November 15, 2002. The City has also resubmitted a Coastal Implementation Plan that is still pending.



The standard of review of the land use plan is Chapter 3 of the California Coastal Act. The following findings analyze the re-submittal with respect to its conformance with Coastal Act policies and discusses suggested modifications to bring the LUP into conformance with Chapter 3.

B. Community Character/Visual Coastal Act Provisions

One of the primary objectives of the Coastal Act is the protection of scenic and visual resources, particularly as viewed from public places. Section 30251 requires that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Another Coastal Act objective is to protect the character of special communities. Section 30253(5) states:

New development shall...(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Introduction/Background

It is often stated that Carmel, along with such other distinct communities as the town of Mendocino, is one of the special communities for which Coastal Act section 30253(5) was written. Carmel is a very popular visitor destination, known as much for the style, scale, and rich history of its residential, commercial, and civic architecture, as for its renowned shopping area, forest canopy and white sand beach. As a primarily residential community, the established pattern of development in Carmel plays a key role in defining the special character of the City, as various architectural styles reflect the historical influences that have existed over time. Carmel is distinctly recognized for



its small well-crafted cottages, informal streetscapes, architectural diversity, and forested landscape. These modest residences are associated with the era in which Carmel was known for its resident artists and writers, and functioned as a retreat for university professors and other notables. Homes were nestled into the native Monterey pine/Coast live oak forest, on a grid of streets that yielded to trees more than to engineering expediency.

Early development was greatly influenced by the Arts and Crafts movement, which stressed the use of simple designs and natural materials—quite unlike the extravagantly detailed architecture of the earlier Victorian period. Several European Revival styles became popular in the 1920's and 1930's. The introduction of more modern styles followed post-WWII. Many of Carmel-by-the-Sea's homes exhibit fine craftsmanship. Local builders often embellished their work with detailing and individual style creating a unique and appealing building design. Underlying this architectural diversity, are environmental influences (i.e., trees, topography, exposure to sunlight) and patterns of scale and form that consistently reappear to establish Carmel's character. But perhaps the most basic tenet of Carmel's small-scale character stems from the original 40 x 100 subdivision pattern established by the City's founders Devendorf and Powers.

Traditionally, most buildings in Carmel had simple forms and were small in scale relative to the size of their lots and natural surroundings. As reported in the City's Design Traditions project on the standard 4,000 square foot lot homes were small, one to one and one-half stories, and ranged between 800 square feet to 1,500 square feet on average. There were larger homes constructed as well, though the pattern was one of small homes on small lots and larger homes on building sites composed of several lots. Growth in the tourism industry and an increase in the popularity of the automobile led to an early development spike in Carmel's history. By the end of the 1930's much of the character of Carmel had been established both in the context of its built and natural environment.

The Design Traditions Project summarizes some of the features of character in the following manner:



TABLE 1

Subdivision Pattern	A grid of 40' x 100' lots running east-west with 20 lots per block.
Architecture	Variety of homes in several styles including Craftsman, Cotswold, Tudor Revival, European Revival styles (e.g., English, Spanish, Italian), Modern, Prairie, Post-war Ranch and Bay Area Traditions.
Size	A diversity of smaller houses on standard lots (e.g., 4,000 s.f.) ranging on average between 800 and 1,500 sq ft intermixed with larger homes on larger building sites.
Scale	Small relative to lot size and natural environment.
Height	Often one or one and one-half stories. .
Setbacks	Generous setbacks often exceeding minimum allowance. Average side-yard setback of 10 feet and average front yard setback ranged between 20 and 25 feet.
Streetscape	Informal meandering roads, unimproved rights-of-way often supporting trees and other vegetation.
Natural Environment	Monterey pine and Coast live oak dominated forest.
Land Use	Primarily residential with a strong commercial core, several public parks including 22 acre white sand beach.

This is the context for Carmel's traditional community life and its established unique community character.

1. Carmel's Character

Consistency with the Coastal Act

There are many components that together make up Carmel's community character today, including the assortment of small eclectic cottages built in the early 20th century. The City's coastal setting, forested landscape, and white sand beach are examples of universally recognized elements of Carmel's character. Other important elements of character include the informal streetscapes, small well-built cottages many of which are historic homes, and the visual quality established by the diversity of architecture and integration of homes into the natural environment. Although there is a broad range of architectural styles in Carmel, most have some features in common, including simplicity of form, modest scale, use of natural materials, and generous provision of open space.



In recent years, the issue of protecting Carmel's community character has come to the forefront of Commission concern because: 1) the special character of this residential coastal community is considered a unique asset of statewide and national significance, and 2) the volume of requests for coastal development permits that potentially affect community character has been substantial. According to the Commission's permit tracking database, approximately 170 projects involving demolition received coastal development permit authorization in Carmel since 1973. Of those, 23 CDP's were issued before 1990. Since 1990, roughly 13 residentially related demolition project applications per year were received; nearly all of these were approved. Other than the three-year recessionary period from 1992 – 1994 when just 13 applications were received, the number of development proposals in Carmel rose fairly steadily until 2000. However, in the year 2000 alone, the Commission received 44 applications. Of these 44 applications, 33 involved some form of demolition, rebuilding and/or substantial alteration of residential structures. In 2001, 24 applications were received; 16 of these involved residential demolitions/alterations. In 2002, 17 applications were received; 12 of these involve residential demolitions/alterations. Clearly the trend for demolition/rebuild/substantial remodel has been magnified in recent years as demand for Carmel properties has outstripped the limited supply represented by the approximately 3,200 parcels within the boundaries of this small town. As this trend continued, questions have been increasingly raised about whether the redevelopment of Carmel is leading to significant adverse changes to the unique character of Carmel and to the loss of historic resources that contribute to this character.

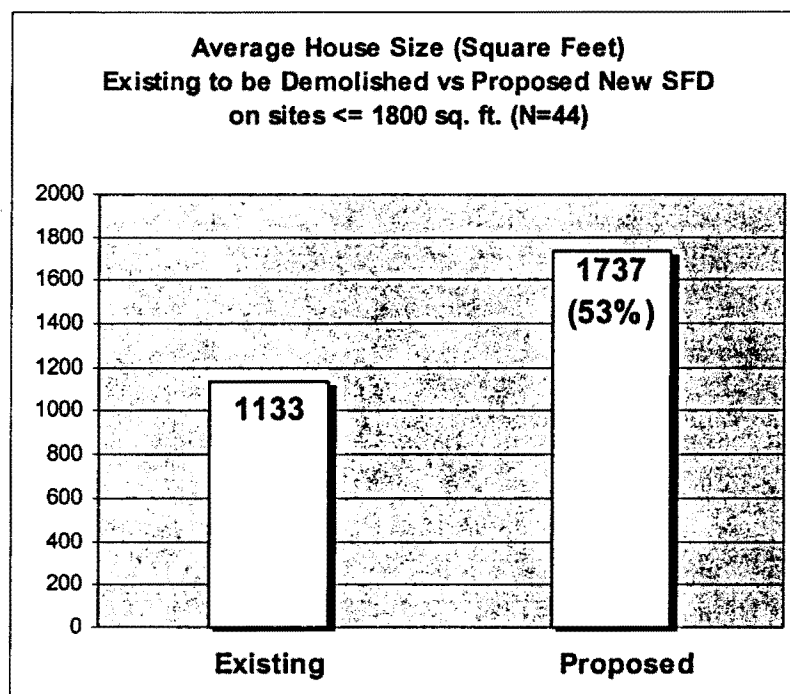
Coastal Commission Staff recently evaluated a sample of proposed demolitions and remodels on 4,000 square foot lots (44 projects), which revealed that the average size of the existing homes to be demolished was approximately 1,135 square feet, whereas the replacement structures approved were just under 1,740 square feet on average – a 53% average increase in size (See Figure 1)⁵. Staff also found that nearly 60% of the residential demolition and rebuilds involved the replacement of a one-story structure with a two-story structure. This data analysis is consistent with the results of the City of Carmel's own Design Traditions project released in October 1997. As discussed previously, the Design Traditions project found that the established pattern of development was of larger homes on larger lots and smaller homes on small lots. Given the common sized 4,000 square foot parcel, on average houses ranged in size between 800 and 1,500 square feet. That project also evaluated the recent development trends in the City from January 1990 to May 1997 and found that 1,192 building permits were issued for development in the residential district during that time. This represents roughly 180 permits per year. Of those 1,192 building permits issued, only 242 (20%)

⁵ The forty-four projects analyzed are: 3-95-047-DM, 3-97-022-DM, 3-97-045-DM, 3-98-006-DM, 3-98-024-DM, 3-98-033-DM, 3-98-053-DM, 3-98-082-DM, 3-99-005-DM, 3-99-012-DM, 3-99-046-DM, 3-99-072-DM, 3-99-074, 3-99-088, 3-00-011, 3-00-028, 3-00-082, 3-00-084, 3-00-085, 3-00-086, 3-00-091, 3-00-095, 3-00-101, 3-00-104, 3-00-107, 3-00-115, 3-00-120-W, 3-00-122, 3-00-128, 3-00-135, 3-00-136, 3-00-143, 3-00-145, 3-00-146-DM, 3-01-006, 3-01-025, 3-01-048, 3-01-065, 3-01-078, 3-02-005, 3-02-008, 3-02-019, 3-02-032, 3-02-059, 3-02-081.



required a public hearing, the remainder received design review through a staff administered process. Of those 242 receiving design review public hearings, 128 involved substantial alterations, 49 involved demolitions with a single replacement home, 14 involved demolition with two or more replacement homes, and 39 involved new construction on vacant lots. The vast majority of those projects other than substantial alteration were for new two-story homes. Eighty-eight percent or 90 out of 102 new homes were two-story.

Figure 1. Carmel, Changes in House Size



Since mid-1997, the City has continued to experience unprecedented development activity during one of the most prolific economic expansions in modern times. Commission Staff evaluated building permits issued by the City during one 18 month period at the height of the boom (i.e., 9/2000 – 2/2002) and discovered that more than 80 substantial alterations and remodel permits were issued; 55 of those involved development in excess of \$50,000. Though not technically considered demolitions (according to the City's current definition), these types of construction activities have significantly altered the character of existing structures and neighborhoods, but have been generally excluded from the coastal development permit review process. Please see Figure 2.



Figure 2: Development Activity: 1974 - 2001

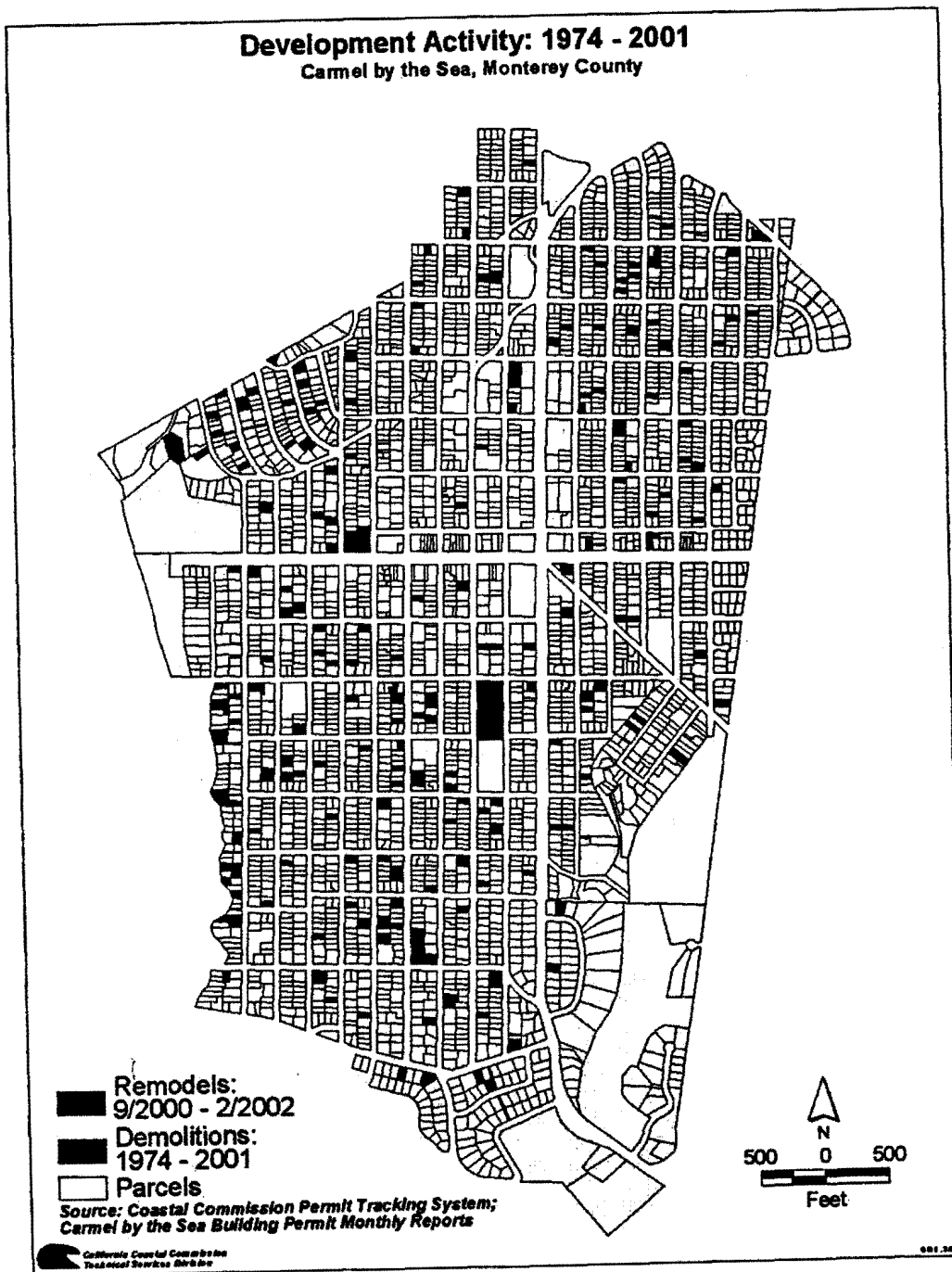


Figure 2 illustrates the scope and magnitude of the development activity occurring in Carmel. Of the approximately 170 demolition permits issued by the Commission, only 128 are represented on the figure. Additionally, as noted above, the data from the City building permits monthly reports are from one 18-month period. Overall, this information



shows that a significant number of smaller cottages have been demolished or altered or remodeled in a relatively short period of time. The replacement homes and substantial remodels are, on average, resulting in larger floor area, mass, and site coverage. In addition, the streetscapes and spatial relationships are changing, the forest prominence as a defining character element is declining, open space is disappearing, and more traditional architectural styles are being supplanted by modern eclecticism. There are also as yet unmeasured impacts on the watershed functions of the forest including absorption and conveyance of storm water and filtration of pollutants. Considering the trend of demolition, substantial alteration, and remodel activity over the past 10 years, it is evident that this development activity is having a significant cumulative impact on the unique character of Carmel.

In addition to the Commission's experience with permitting new development, the loss of Carmel's character was also identified in local public workshops as one of the primary concerns affecting the community at this time. As a result, the City dedicated the first chapter of the LUP to addressing the issue of community character and its many components.

Much of the background text in the submitted LUP document (pp. 7 –13) is dedicated to describing the natural setting, subdivision patterns, layout of public roads, arrival of Bohemians, and early architectural influences. It generally describes the turn-of-the-century cottages as simple, modest homes set amidst a forest landscape interspersed with larger homes similarly scaled and nestled in the forest on larger building sites. Recognizing that some amount of development or re-development of these houses is appropriate and necessary, the LUP maps a two-prong strategy for dealing with homes that are historic resources and homes that are not historic (i.e., character resources). The submitted LUP allows for new development and/or re-development of non-historic homes as long as it is consistent with the City's Residential Design Guidelines and the established character of the block and neighborhood. On page 22 of the Land Use Plan it states:

The City implements conservation of its character through its Design Guidelines for the residential district, the commercial district, and for the public way. The overall character of the City can be conserved through appropriate policies related to the urbanized forest, roadway design and building design.

The policies, goals, and objectives, directing development and re-development of Carmel's aging stock of residential homes are stated on pages 35 and part of page 36 of the re-submitted Land Use Plan. The first 12 policies of the submitted LUP are dedicated to maintaining and protecting the existing land use and subdivision patterns in the residential and commercial districts. The next 10 policies provide guidance for future development and re-development in the R-1 (residential) district. However, because much of the City's planning effort was implementation oriented, there is insufficient policy direction contained in the LUP. Thus, in order to find the LUP wholly consistent with section 30253 of the Coastal Act, additional policies are needed to



identify and protect community character.

The City's Residential Design Guidelines, which have also been submitted as part of the Implementation Plan, capture the important aspects of Carmel's character. Policies and recommendations were developed to preserve and maintain those qualities. One way to ensure that the conservation of character resources will be achieved consistent with section 30253 of the Coastal Act is to capture the essence of the policies and recommendations taken from the Guidelines and place them into the Land Use Plan. The City's Residential Design Guidelines more specifically address the treatment of size, massing, coverage, open space, streetscapes, and the forest landscape than the City's LUP submittal. Primary consideration is given to compatibility with the design traditions of Carmel, maintaining the urban forest character, promoting buildings that are in scale with that context, while encouraging diversity in design. The Commission recommends that the LUP be modified to incorporate various Residential Design Guidelines, while still allowing for diversity through design review. (See modifications 1 – 8).

Similarly, the submitted LUP identifies policies to guide future development and redevelopment of the City's commercial district. Part of page 36 and all of page 37 are dedicated to policies that preserve existing land use patterns, protect the unique character of Ocean Avenue, and retain the scale and variety of design established in the retail core, while also preserving and allowing for rehabilitation of the commercial district's historic architecture. LUP policy P9-25 specifically requires that the scale, ambience, and unique character of Ocean Avenue and the surrounding commercial core be protected and maintained. This is particularly important since a large portion of the commercial district was identified as a potential candidate for a historic district, during the City's 2001 historic resources reconnaissance survey. The commercial core (particularly Ocean Avenue) may be the most recognizable area in Carmel as it offers visitors their first glimpse of the village as they make their way down the hill from Highway 1.

The Commission received comment from the public concerned that recent changes to the City's ordinances may be leading to an increase in building intensity and a loss of character. Recent changes to the City's Commercial District ordinance increase the allowable building intensity from 80 – 100% floor area ratio (1 and 2 story respectively) to 95 – 135% floor area ratio. It also provides another 15% floor area bonus and 35% density bonus for affordable or senior housing and for special design amenities. Though the ordinance change could lead to an increase in density in some areas of the commercial core, currently much of the commercial area development already exceeds the old standards and is non-conforming. Quite a number of commercial buildings that line Ocean Avenue and elsewhere in the commercial district are already two-story and built out to the property lines. Thus, the increased floor area and density standards will likely only have the effect of making these buildings conforming. In addition, development or re-development of any commercial structures that are proven to be historic resources would need to be consistent with the Secretary of Interior Standards



(SOI). (See discussion of Historic Resources in Section 1 below). The SOI standards require, among other things, that spatial relationships be maintained. For example, a request to add a second-story element to an existing structure on a block where there are only a few remaining examples of single-story structures would not be appropriate or consistent with the LUP policies protecting the character of the commercial district. Thus, it appears that the recent changes to the commercial district ordinance will not have a deleterious effect or lead to a wholesale transformation of the commercial district, as there are adequate protections to preserve the commercial core's character.

Other aspects of character not addressed by the re-submitted LUP are the standards for floor area ratio and site coverage (pages 29–30). The increase in floor area allowed by the City's current zoning standards has slowly been eroding the small-scale aspect of character, as the City's older housing stock is demolished to make way for new development that is larger in size and scale. As noted in the background section above, the established development pattern is one of small homes on small lots and larger homes on larger lots resulting in a diverse range of home sizes. According to the GIS data provided with the LUP submittal, more than half of the total number of developed lots are 4,000 square feet. As discussed, the City's own Design Traditions Project has demonstrated these lots are developed with homes that range between 800 and 1,500 square feet. The Commission's experience with redevelopment projects is that smaller houses (~1,135 sq. ft.) are being replaced with larger houses. Furthermore, it has been shown that as redevelopment occurs, this variety of small homes is being replaced almost entirely with 1,800 square foot homes –the maximum currently allowed by the City. The diversity in small homes on small lots is being replaced by much larger homes all of the same size on the small lots. On average, based on the Commission's recent experience, the replacement homes are 50% larger than existing; some even larger. Total site coverage (structural and non-structural) commonly doubles when the lot redevelops, though there have been cases where site coverage has decreased. In most instances, massing is much greater as the typical single-story cottage is replaced by a two-story home. The buffer between adjacent homes is reduced. Front yard and rear yard setbacks are reduced. And there are immediate and long-term effects on the City's forest resources and water quality. In the short-run, trees are being removed to support larger development on the constrained sites. In a two-year period between 1999 and 2001, the City removed 262 Monterey pines, 179 that were infected with Pitch canker disease. Another 83 healthy trees were also removed. Long-term, the overall health of the forest may be declining due to impacts from construction to the root structure and diminishing open land available for absorption of water and natural regeneration. In addition to changing the character of Carmel, the increase in hardscape surfaces accelerates runoff and covers land previously available for absorption and filtration of storm water, contributing to an increase in polluted runoff and sedimentation of public waterways (see finding below). But, perhaps the biggest loss in character is to the sense of a cottage nestled in the forest. This is, after all, the essence of Carmel's character that is so widely cited.



One option to address this, is to limit the above grade building intensity to a maximum of 40% (i.e., 1,600 square feet on 4,000 square foot lots) in the R-1 zone with structural coverage limited to 40% of the site. Other site coverage (i.e., non-structural) would remain at 10% for a 4,000 square foot lot. Four thousand square feet is the standard size parcel as originally subdivided and the minimum allowable size lot for a single-family residence. Another option would be to place an upper limit on additional floor area (e.g., $\leq 10\%$ over existing) when a cottage redevelops as a means to maintain the relative scale and character of the site and preserve diversity in home size while allowing for some limited redevelopment. This may not allow enough floor area though, to accommodate modern expectations, particularly for larger families –a concern recently expressed by the City. The proposed 1,600 square foot above grade limit allows for a reasonable amount of re-development (roughly one-third greater than the average established size of existing small cottages) without the significant adverse impacts described above. Furthermore, it only represents about an 11% reduction in the City's current floor area standard. There is also a precedent for limiting floor area to 1,600 square feet. Categorical Exclusion Order E-77-13 under which the City currently operates, excludes from the permit requirements of the Coastal Act construction of residential homes in Carmel 1,600 square feet or less. The Commission found at the time of the adoption of the order that development of single-story residential structures 1,600 square feet or less would not result in any significant adverse impacts. Additionally, the above grade limit does not affect any potential for floor area sub-grade (i.e., basement or garden-level).

The City of Carmel has expressed concern that a maximum above grade floor area 1,600 square feet on standard lots is too small to attract families [i.e., with children]. The current zoning, which allows 1,800 square feet has been in effect for approximately 15 years. Prior zoning had allowed for even larger homes on standard lots. It's unclear to what extent this may have affected the demographics of Carmel. Data from the 2000 U.S. Census survey, shows that only 11.5% of households are families with children under the age of 18 in Carmel. Seventy percent (70%) of Carmel's population is older than 45 years. By comparison, 40% of Monterey County households are families with children under the age of 18. Census data also revealed that of the 3,331 residential housing units in Carmel, only 2,282 are occupied while 1,049 (31%) are vacant. The 2000 Census identified a large percentage of the vacant homes (83%) as being seasonal or recreational homes. Housing occupancy in the greater Monterey County was 92% in 2000.

The question raised by the City is whether an 1,800 sq.ft. home rather than 1,600 sq.ft. will better accommodate families relocating to Carmel. As we are seeing nationwide, families are opting for larger homes on larger lots. Data from the National Association of Home Builders illustrates a trend that is occurring all over the county –the new American home is getting larger. People are buying homes with more bedrooms, more bathrooms, and more flourishes than ever before. The average size of new homes is 2,325 square feet, about 12% larger than a decade ago. Most have at least 3



bedrooms, and more than half have two stories and at least 2.5 baths, roughly one for each member of the average household. Families are looking for a home with enough space to store its clothes, skis, mountain bikes, Surfboards, and SUV's. Families are also looking for more acreage. Nationwide, the average size home is constructed on lots that average 13,000 square feet. One does not have to look much beyond Carmel's City limits to see examples of this trend (e.g., Carmel Point, Pebble Beach, etc.). Thus, the real attraction for families appears to be a combination of larger homes on larger lots. Carmel does have a number of larger homes constructed on multiple lots. However, a majority of its building sites are the standard 4,000 square foot lot, which is much smaller than demanded by families on average. It should be noted that, although a maximum square footage addresses some of the character concerns raised by redevelopment (cumulative bulk, scale, tree protection), it doesn't necessarily maintain diversity. However, other modifications (Modification 1 - 6) provide the City with the necessary discretion to exercise its planning judgment in addressing community character on a block and neighborhood basis. For example, Modification 6 (new policy) requires that all development be consistent with the findings that the proposed development is similar in size, scale, and form to buildings on the immediate block and neighborhood while protecting trees and preserving the broader elements of community design.

As discussed above, policies addressing the treatment of size, mass, coverage, open space, streetscapes and the forest landscape are critical to maintaining and preserving community character in Carmel. The re-submitted land use plan policies do not fully encapsulate each of these character elements nor is it specific enough to ensure that they would be preserved. Thus, the Commission recommends the City of Carmel-by-the-Sea Land Use Plan be denied as submitted. The Commission has proposed modifications to the LUP that if amended, would adequately identify the elements of character and provide enough specificity to protect the residential character of this special community. The amended LUP will also provide the necessary context to both the development community and City Planners, for designing, constructing, evaluating and ultimately approving new development consistent with the goal of protecting community character. With the addition of the proposed modifications, the Commission finds the submitted LUP consistent with section 30253 of the Coastal Act.

2. Historic Resources

Background

The protection of historic resources is central to the issue of protecting community character in Carmel. Historical resources range from architecturally significant historic buildings and collections of buildings or residences that form distinctive neighborhoods to those associated with important persons or events in Carmel's history. It also includes street features, landscaping and both prehistoric and historic archaeological



resources. Like the character cottages described above, historic resources often embody the attributes and design traditions recognized in the City's Design Traditions Project as providing "character" to the community. However, historical resources are further distinguished from their character resource counterparts for their contribution to the broad patterns of local history. The types of historic resources in Carmel are classified using the criteria established in the California Register of Historic Resources. The criteria for historical significance ranges from architecturally significant historic buildings associated with significant events or persons, or resources that embody the distinctive characteristics of a type, period, region, or method of construction or represent the work of master builder, and resources that yield information important to the prehistory or history of the local area, California, or the nation. The City has prepared and adopted a Historic Context Statement (See Appendix F) that provides additional context for establishing historic significance under local criteria.

Historic preservation is a growing concern nationwide as redevelopment of our aging cities and towns intensifies. In Carmel, a rapid escalation in the value of property has led to an unprecedented amount of acquisitions of existing small cottages and requests for permits to demolish and redevelop the lots with larger modern homes. In response, public concern has turned to the need for a historic preservation program that protects historic resources from being demolished and that guides rehabilitation in a manner that is consistent with the Secretary of Interior Standards and the established character of the community. In large part, this single issue is driving the City's most recent effort at LCP certification. The City of Carmel has responded by submitting a program for preserving historic resources. The policies implementing this program are presented on pages 44 – 49 of the resubmitted Land Use Plan.

Carmel LUP as Submitted

The City's amended LUP submittal includes a variety of important policies to promote the identification and preservation of historic resources. This includes establishing procedures for identifying historic resources, updating the City's Historic Context Statement, educating the public about historic preservation, applying the Secretary of Interior Standards and Guidelines to proposed modifications of historic resources, ensuring rehabilitation of historic resources is consistent with the character of the City and so forth.

Coastal Act Consistency

The Commission recognizes that the loss of the City's historic cottages and houses has the potential to adversely impact community character and thus the recreational opportunities represented by them. Coastal Act section 30253(5) requires that special communities such as Carmel be protected against the erosion of its character through policies that guide development and redevelopment in a manner consistent with the established character of the village.



In particular, demolition and/or substantial alteration of existing historic homes and cottages may result in the loss of the unique character, which they individually represent and which cumulatively, form an important part of Carmel's architectural evolution and character. Once the character defining features of a house has been modified, its character is forever changed –replaced by something that may not retain substantial architectural integrity. Additionally, the design modification may not be consistent with the established character of the block, neighborhood, or City. As discussed in the Character Resources section above, the volume of requests for demolitions in recent years has increased substantially, leading to concerns that the character of the community may be slipping away.

As briefly summarized above, Carmel's resubmitted LUP contains a comprehensive set of historic resource policies designed to promote the identification and preservation of historic resources including buildings, structures, objects, sites, districts, and archaeological resources (discussed in section 4 below). The primary objectives of the historic preservation element (policies) are:

- Identify and preserve historic resources;
- Incorporate historic preservation principles into the City's design review process

The policies in the resubmitted LUP provide a framework for establishing a historic preservation program, though they are not specific with respect to identification, review process, and treatment of historic resources and as such, inconsistent with section 30253 of the Coastal Act. In order to achieve the objectives identified above consistent with 30253 of the Coastal Act, modifications are necessary as discussed below.

Modifications

As discussed above, identification and preservation of historic resources is critical to maintaining and protecting community character in Carmel. The City has submitted a historic preservation element that provides general guidance but requires some specificity on issues to carry out the requirements of the historic preservation program.

Specifically, the City's submittal is silent on the creation of a Historic Preservation Board that performs the ministerial functions of the historic preservation program. Though there is reference to the Board in the policies (and the submitted IP contains some detail on the HPB), there is no policy requiring its creation or establishing qualifications for its members. Modification 24 requires the establishment of the Historical Preservation Board. This is important to acknowledge and provide for the heightened review of historic resource issues (Modification 21) by a specialized review body.

Over the course of the past twenty years, a number of historic resource surveys have been prepared and resulted in the compilation of an inventory of potential historic resources. These "lists" have been used by the City of Carmel from time to time to



assist planners and city officials in making decisions. These inventories were created by registered Architectural Historians, which evaluated the structures for local historic resource significance. Although, there is still some debate as to the validity and current status of the inventories, they do provide additional context for the City and newly created Historic Resources Board in determining historical significance. Indeed, the City's current Historic Resources Inventory utilizes historic evaluations from past surveying efforts. Modification 10 requires that all resources previously surveyed and evaluated by qualified professionals that meet the criteria for historical significance as identified in the City's Historic Context Statement, be incorporated/consolidated with the newly created Carmel Inventory of Historic Resources.

The resubmitted LUP requires that the City's Historic Context Statement be updated periodically. The Statement was developed and adopted by the City Council in 1997. Since that time, at least one partial reconnaissance survey of the City has been performed potentially identifying additional context for Carmel's established character. Modification 11 requires that the Context Statement be updated every 5 years to keep pace with changes and new information, and to assure that those updates are submitted as LCP amendments.

P9-64 of the resubmitted LUP established the procedures for determining the Integrity of a potential historic resource and includes employing the original building plans or early photographs. There are other materials available to assist in the determination of Integrity including literature reviews, architectural files, land records, Sanborn maps, etc. Modification 13 broadens the scope of materials to be used in making this determination. Additionally, modification 13 clarifies that a physical inspection be conducted by a qualified historic preservation professional.

To qualify as a historical resource under criteria 3 of the California Register of Historic Resources, a structure must "embody the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values." P9-65, as submitted, places additional restrictions on meeting these criteria. In the field of Historic Preservation the criteria for determining the significance of a resource are based on such factors as association with historical events, association with significant persons, embodiment of distinctive types, historic periods, and methods of construction, etc. The California Register, which is managed by the State Office of Historic Preservation, has encapsulated these into four criteria for historic significance: resources that (1) are associated with events that have made a significant contribution to broad patterns of local or regional history or the cultural heritage of California or the United States; or (2) are associated with the lives of persons important to local, California or national history; or (3) embody the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values; or (4) has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.



As submitted the Carmel LUP adequately addresses some of these criteria, particularly in its grounding of their interpretation in the adopted Historic Context Statement. However, the City's submittal inappropriately limits the application of category 3, above, by specifying that a higher degree of integrity be shown. The LUP already provides that integrity be shown for any resource to be considered historic and there is no good basis for requiring a higher standard for category 3 as distinct from the other categories. In addition, and related, there is insufficient attention in the LUP to the significance criteria for category 3, above. Although it is appropriate to further elaborate on what types of resources may be considered significant under the general category 3 language, Modification 14 further clarifies that resources may be significant if they embody distinctive characteristics in such a way as to be a good example of these characteristics as reflected in the Context Statement for Carmel. Thus, the degree to which a structure represents the characteristics important to any particular historic context is an important and well-accepted criteria for historic significance. Indeed, in a community such as Carmel, where the character is defined by the cumulative look and feel of the built environment, particularly concerning particularly periods, types, and styles of architecture, it is important to recognize the role that category 3 plays in defining this cumulative community character. Finally, as already acknowledged by the City's LUP, structures that are rare are important to acknowledge, and should qualify for listing under category 3.

The Commission recommends deleting P9-67 (Modification 15) because it is not necessary for the LCP, particularly in light of other policies that address identification of historic resources.

A minor modification (Modification 16) to P9-68 is needed to clarify the intent of this policy and to assure that resource are not removed from the City's historic resources inventory unless substantial evidence warrants such a decision.

Similarly policy P9-70 was modified to recognize the statutory requirements of the Coastal Act for issuance of a coastal development permit and to recognize the City's LCP as the standard of review for development that affect historic resources. (Modification 17).

Policy P9-79 was changed from a policy to an overriding goal of the element and revised to restate the purpose of the City's mission. "Protect and enhance historic resources. Ensure that City ordinances, development review policies...." (Modification 18)

Similarly, policy P9-80 of the submitted LUP was changed from a policy to an objective of the program. A small revision was made to clarify the intent of the program consistent with section 30253 of the Coastal Act. (Modification 19)

To fulfill the intent of section 30253 of the Coastal Act, the LUP submittal must include policies and procedures to protect historic resources. Modification 22 prohibits all demolition and any alterations of historic resources unless it is determined through



environmental review that there are no feasible alternatives (e.g., rehabilitation consistent with Secretary of Interior Standards). Additionally, modification 20 requires all buildings regardless of age be evaluated for historical significance by a qualified professional in accordance with criteria in the California Register of Historic Resources.

Finally, one aspect of a successful historic preservation program are the incentives granted to homeowners to preserve and maintain their resources. The current submittal of the LUP is silent on establishing incentives to promote historic preservation. Modification 25 is a new goal establishing historic preservation incentives. Modification 26 is a new policy outlining the various incentives available to homeowners for historic preservation.

With Modifications 9 - 26, the Commission finds that the LUP historic resource policies are consistent with Coastal Act section 30253(5).

3. Scenic Resources

Carmel is one of those special communities for which Coastal Act section 30253 was written. Though much is made of the eclectic cottages in the forest and brilliant white sand beach, world-renowned shopping, proximity to Pebble Beach and gateway to Big Sur, the LUP does not designate Carmel a "special community" worthy of protection. Modification 27 acknowledges the significance of City's unique character and designates Carmel a special community and highly scenic area for the purposes of Coastal Act Sections 30251, 30253, and 30610 along with corresponding regulation 13250. This designation provides the basis for requiring coastal development permit review of development proposals that potentially impact historic and/or character resources.

Other than the need to protect character through implementation of land use and landscape policies, the scenic views and resources of Carmel's beach, parks, and open space are adequately protected in the LUP. The re-submitted LUP proposes the adoption of policies that would impose an 18-foot height limit on houses that front North San Antonio and Scenic Drive (P9-18). Additionally, the City's tree and vegetation maintenance program policies require regular pruning to protect views to and along the coast as seen from Scenic Road and the blufftop path (P9-188). New development along Scenic Road, Junipero Avenue, and Torres Street at 3rd Avenue is required to protect the unique scenic quality and public views, minimize landform alteration, and be visually compatible with the character of surrounding areas (P9-201). The LUP also contains a general policy to preserve and protect areas, which due to their outstanding aesthetic quality, historical value, wildlife habitats or scenic viewsheds, should be maintained in permanent open space (P9-199). As such the resubmitted LUP policies are adequate to carry out the intent of Coastal Act section 30251.

4. Archaeology

This aspect of community character has likewise been adequately addressed in the



City's LUP policies. The plan calls for the creation of an archaeological overlay district and standard reporting format for all archaeological documentation (P9-86). All development within the overlay is required to perform a phase 1 study to determine if significant archaeological resources are present (P9-87). If sensitive resources are found on a site, all available measures to avoid development shall be pursued (P9-88). The remaining policies require mitigation for impacts incurred during construction, monitoring, safe retrieval, collection and archiving, or preserving in-situ of all identified archaeological resources. All archaeological resource reports are to be transmitted to the Northwest Information Center as designated by the State Office of Historic Preservation (P9-89, 90, 91). As submitted, the archaeological resource protection measures and policies in the re-submitted Land Use Plan are consistent with Coastal Act Section 30244 for the protection of archaeological resources.

C. Public Access and Recreation Coastal Act Provisions

A broad policy goal of California's Coastal Management Program is to maximize the provision of coastal access and recreation consistent with the protection of public rights, private property rights, and coastal resources as required by the California Constitution and provided in Section 30210 of the Coastal Act. Several additional policies contained in the Coastal Act, which are incorporated into the Land Use Plan, work to meet this objective. The Coastal Act requires that development not interfere with the public right of access to the sea (Section 30211); provides for public access in new development projects with limited exceptions (Section 30212); distributes access to mitigate against overcrowding (Section 30212.5); encourages the provision of lower cost visitor and recreational facilities (Section 30213); addresses the need to regulate the time, place, and manner of public access (30214); specifies the need to protect ocean front land suitable for recreational use (Section 30221); gives priority to the use of land suitable for visitor-serving recreational facilities over certain other uses (Section 30222); and requires the protection of upland areas to support coastal recreation, where feasible (Section 30223).

Coastal Act Policies

Section 30210 of the Coastal Act states that:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

The Coastal Act also requires that development not interfere with the public right of access to the sea in Section 30211:



Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act provides for public access in new development projects with limited exceptions and provides for the distribution of parking over a wide area in Section 30212.5:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an



adverse impact on lateral public access along the beach.

As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

In addition, the Coastal Act encourages the provision of lower cost visitor and recreational facilities in Section 30213:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The Commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30214 of the Coastal Act addresses the need to regulate the time, place, and manner of public access:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.



(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

The Coastal Act specifies the need to protect ocean front land suitable for recreational use in Sections 30220 and 30221:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

The Coastal Act also gives priority to the use of land suitable for visitor-serving recreational facilities over certain other uses in Section 30222:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223 requires the protection of upland areas to support coastal recreation, where feasible:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.



Finally, the Coastal Act also facilitates public access by providing for public transit, alternative means of circulation and adequate parking in new development in Section 30252:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Introduction/Background

The beach at Carmel-by-the-Sea is a popular tourist destination for visitors from foreign countries, all 50 states of the U.S., as well as for residents of cities and towns located in Central California. All 22 acres are held in public ownership and open 24 hours each day. In 2002, National Geographic Traveler magazine declared Carmel beach one of America's Best Beaches. At about one mile in length, the beach's white sands extend out below translucent blue waters into Carmel Bay. Wind-sculpted Monterey cypress trees line the shoreline. Views to the north are of the majestic rocky bluffs of Pebble Beach; the south vista is of Carmel Point and Point Lobos beyond. Above the beach on Scenic Road, a recreational trail system offers a unique public pathway experience as it meanders along the undulating bluffs. The decomposed granite pathway passes between Cypress tree and vegetated bluff outcrops and is complemented by nine vertical access stairways and a series of benches and overlooks. The trail provides a complementary experience to the sandy beach for individuals interested in enjoying the shoreline from the bluff.

Aside from its world-class beach, the City also maintains a handful of parks, preserves, and other recreational opportunities within its boundaries including Mission Trails Nature Preserve, Rio Park, Forest Hill Park, and the Carmel Mission. With the exception of the Mission, these parks are generally undeveloped forestlands with Monterey pine and coast live oaks, though all contain a wide variety of vegetation and habitats. Most of the parks are developed to support passive and active recreational activities (e.g., hiking, nature study, etc). The Carmel Mission (Mission San Carlos Borromeo) is a state and federally listed Historic Resource. It was originally constructed



in the late 18th century and is an excellent example of a restored/reconstructed California Mission, which has the added importance of being founded by Father Junipero Serra. The Mission is open to the public and is the gathering place for a multitude of functions including weddings, masses, concerts and lectures, and as a historical museum.

Carmel-by-the-Sea is also world renown for its shopping. Ocean Avenue is the starting point for a multitude of art galleries, restaurants, jewelry stores, clothing shops, and bistros. The City's commercial core is dominated by ground floor retail shops often with second story visitor-serving accommodations. Hundreds of thousands of visitors each year come to Carmel to stroll through the village, shopping, eating, people watching, and maybe rub elbows or catch a glimpse of some of the town's most famous residents and visitors.

As alluded to above, the City of Carmel-by-the-Sea also provides an excellent amount of overnight visitor-serving accommodations. There are approximately 950 hotel/motel rooms within the city limits occupying roughly 50% of the land area in the business district. Accommodations range from elegant resort-like hotels to smaller whimsical bed and breakfasts. As noted above, most visitor-serving lodging resides in the business district around Ocean Avenue, though there are a few sites sprinkled in the residential-zoned neighborhoods. Based on approximately 3,200 home sites within its boundaries, the City of Carmel provides roughly 1 visitor-serving room per every 3.5 houses.

Consistency with the Coastal Act

On November 15, 2002, the City of Carmel-by-the-Sea resubmitted its Coastal Land Use Plan that includes among other things goals, objectives, and policies designed to protect, maintain, and improve a multitude of public access and recreational opportunities along its shoreline and inland parks. The LUP discussion of access and recreational issues appears on pages 51 – 71 and includes policies that are to a great extent, consistent with Coastal Act policies 30210, 30211, 30212, 30212.5, 30213, 30214, 30220, 30221, 30222, 30223, and 30252.

The City's LUP policies identify and maintain the current variety and number of public access points and recreational support facilities along the nearly 1 mile stretch of coastline. Development activity is limited to public information signing and facilities that support active and passive recreational activities, beach access, bluff protection (when warranted) and protection of infrastructure (when warranted). The plan recognizes the Del Mar Avenue parking lot as the principal vertical access point to Carmel beach with its 125 free public parking spaces, a sand wash-off station, and public restrooms. The access discussion notes that traffic and congestion in this area are a problem and that attempts to redesign or improve circulation need to avoid or minimize the loss of parking spaces at this location. South of Ocean Avenue along Scenic Road, there are another eight improved vertical access stairways and two vertical sand ramps. LUP



policies provide additional protection and maintenance of these vertical access points requiring they be repaired or maintained when storm damaged. A pedestrian path follows the undulating bluff on the western edge of Scenic from 8th Avenue south to Santa Lucia. The City has adopted LUP policies to maintain this path as a public recreational resource and has recommended that the entire length of the blufftop path (approximately 1 mile) be designated as a local segment / connection in the California Coastal Trail. Additionally, the LUP directs the City to research and identify a location for replacing the current temporary restroom facility on Scenic with a permanent structure. Accessing the blufftop path is logically gained from one of the roughly 125 free parking spaces spread along Scenic Road. In addition, there is one unimproved vertical access point north at 4th Avenue. In the spirit of maximizing public access and maintaining frequent public access points, the LUP requires that this vertical access be improved for public use and enjoyment. LUP policies were also developed to allow a balance of uses with the City's inland parks and preserves. The LUP contains policies that provide for public access and passive enjoyment of City parks while maintaining and preserving sensitive habitat and natural resource areas. In summary, the City's LUP policies address the access and recreation policies of the Coastal Act by: maintaining the Del Mar dunes in public ownership, retaining existing and providing additional public restroom facilities, designating the blufftop pedestrian path as a segment of the California Coastal Trail, maintaining the existing vertical access stairways, improving the vertical accessway on 4th Avenue, providing public parking, and recognizing public prescriptive rights of access.

The LUP also requires that procedures and regulations for temporary events on the beach be implemented to protect public access and environmental resources. Each year Carmel beach is the scene of a handful of public events including a surf contest, kite festival, sandcastle contest, and movie on the beach. These events are free and open to the public and do not preclude access to the City-owned beach. Additionally, the City receives between 3 and 6 requests annually for special event permits for private beach parties (e.g., weddings, etc).

Visitor-serving accommodations provide an opportunity for overnight visitors to stay in the City, and experience the character and charm of the coastal village. They also facilitate access to the City's beaches, parks, and shopping areas as well as providing an economic benefit to the primarily residential community. As noted above, the City provides roughly 950 visitor-serving rooms within its one square mile boundaries. Although the adopted LUP policies do not require any further expansion of visitor-serving amenities, it does establish that the current balance between visitor-serving, residential, and commercial uses be maintained. The LUP also requires a periodic evaluation of whether an appropriate balance of land uses is being maintained.



1. Preferential Parking

The LUP includes a preferential parking policy for Scenic Road and the Del Mar parking lot. Under the program, public parking along this stretch of coastline, as well as the Del Mar Avenue parking lot, would be available from 5:00 a.m. to 10:30 p.m. daily. Residents of Scenic Road are allowed to park 24 hours each day with a resident parking permit. This policy was included to address perceived public nuisance concerns associated with nighttime visitors to Carmel Beach. As discussed below, the policy is not consistent with Coastal Act sections 30210 and 30212, which require maximum public access and access from the nearest public roadway.

Scenic Road lies at the western most edge of the City. It follows the naturally undulating bluffs above Carmel Beach and offers magnificent views of the shoreline. Private homes line the east side of Scenic Road. The western right-of-way provides parking for roughly 125 vehicles and a delineated pedestrian blufftop path experience. There are eight vertical access stairways and two sand ramps leading to the beach along this eight-block stretch of coastal roadway. The Del Mar Avenue parking lot at the foot of Ocean Avenue provides another roughly 125 parking spaces and other public recreation improvements. Several homes dot the southern "turn-around" of the lot. Parking or stopping during the evening (i.e., 10:30 p.m. – 5:00 a.m.) would be prohibited for the general public, though residents and their guests would be allowed to park by displaying a parking permit.

The issue of preferential parking arose in 2000 when the Commission discovered that the City had been operating a public parking ban along Scenic Road for several years without the benefit of a coastal development permit. The discovery was made when the City submitted an application for an "after the fact" permit for the Scenic Road parking program and to expand the parking ban to the Del Mar Avenue parking lot. The parking restriction prohibited parking one half hour after sunset to 5:00 am for all except those with a resident parking pass. The City withdrew its application prior to Commission action. The issue was elevated to a Coastal Act violation and passed on to the Commission's Enforcement division. Pending action by Enforcement, the City agreed to remove or make ineffective the parking program until such a time when it could provide evidence in support of the program. The City then decided to pursue the parking program in the form of an access policy in the City's re-submittal of its Coastal Land Use Plan.

In this instance, the City of Carmel-by-the-Sea proposes the parking restrictions to address a perceived public nuisance due to evening public parking near the beach. Over the past two years, staff has suggested that an evaluation of the available supply of parking for the homes along Scenic Road and Del Mar Avenue and demand for off-street parking during the evening, busy weekends, and holidays be submitted within the context of an coastal development permit application or LCP submittal. The City provided:



"there is some time of day variability and seasonality associated with recreational beach visitors. Most members of this group visit during daylight hours and peak use occurs in the afternoons. Summer is the peak season of use with substantially less demand in the winter season."

Additionally, the City provided nine months of data from its police department (i.e., 2002 year-to-date calls for service) as evidence that a parking program was necessary. See Table 2.

TABLE 2

	8:00 am – 4:00pm	4:00 pm – 12:00am	12:00am – 8:00am
Noise Complaint	9	12	1
Suspicious Person	3	6	2
Suspicious Vehicle	4	3	2
Suspicious Activity	1	3	2
Vehicle Code Violation	3	2	0
Beach Fire Violation	20	56	9
CMC Violation	6	9	1
Parking Violation	82	39	4
Vehicle Lockout	0	1	0

Table 2 breaks out the types of complaints by hour. The first column lists the type of complaints. The second, third, and fourth columns represent the hours and numbers of occurrences. Column two occurrences are outside the affected hours of the parking program, however the data does provide a context for evaluating responses during other hours.

The LUP policy raises issues regarding public use of public streets for parking in order to access the beach, elimination of low-cost recreational amenities during the evening, exclusive use of public property for private use, and absence of adequate parking nearby. To begin with, Carmel Beach is a free resource open to the public 24 hours each day. The ability to take a stroll along the beach or pedestrian path during the evening is substantially dependent upon parking in one of the 300 available public parking spaces on Scenic Road or in the Del Mar lot. The City has offered that nighttime beachgoers (after 10:30 p.m.) could park on adjacent neighborhood streets and access the beach via one of the unimproved connecting easements. San Antonio is located immediately inland of and is parallel to Scenic Road. It is narrow in width without any walkways or street lighting. The public owned right-of-ways in many cases have trees and/or other landscaping impeding parking. Often the available undeveloped spaces are used for second or third resident vehicles. There are no through roads to the beach between 8th Avenue and 13th Avenue. There are however, poorly marked



unlit easements approximately 3' – 4' in width that can be used to walk down to Scenic Road. Although, adequate for using during daylight hours, these easements contain tree roots and cracked and uneven surfaces that make walking on them in the dark hazardous. Furthermore, because they are not well signed or illuminated, they are difficult for visitors to locate even during daytime hours.

Secondly, displacing visitors and their vehicles onto adjacent neighborhoods may introduce problems associated with additional traffic and parking into an area where there are not the improvements to handle them. Because the street right-of-ways are often used by residents for second and third vehicle parking, reallocating public parking onto San Antonio may lead to increased user conflicts as residents and visitors compete for available spaces. Additionally, the limited amount of parking on San Antonio may lead to an increase of parking on or very near sensitive resources such as the root area of significant trees or other vegetated strips. Conversely, both Scenic Road and the Del Mar parking lot have clearly designated parking spaces, a separate and safe pedestrian path, restrooms, and greater street widths to handle the mix of cars, people, bikes, etc.

The City's recommendation for restricting parking at 10:30 p.m. coincides with the 10:00 p.m. curfew on beach fires, but it does not account for the possibility of a midnight walk or late night stargazing or even nighttime fishing. The blufftop pedestrian path similarly provides one of the few coastal recreational opportunities on the Monterey peninsula for persons with disabilities during the evening. Access to this recreational experience is gained from parking along Scenic Road. A 10:30 p.m. ban on public parking along Scenic Road and the Del Mar lot would preclude nighttime access to the coast for this user group. During the summer months the sun sets at 8:30 p.m. and the sky is not completely dark until shortly after 9:00 p.m. People, visitors and residents alike, are still bustling about at 10:00 p.m., 11:00 p.m., even midnight on warm summer evenings. Restricting parking at 10:30 p.m. substantially decreases the opportunity for all persons to enjoy the beach other than those that live on Scenic or Del Mar or are the guests of these residents.

The City has argued that LUP policy P9-134 is consistent with the intent of Coastal Act section 30210 (maximum public access), 30212 (public access from nearest roadway), and 30214 (regulate time, manner, and place of access) consistent with public safety needs, the need to protect public rights, the rights of private property owners, and natural resources from overuse. As has been demonstrated in the findings above, the LUP policy is clearly not consistent with 30212 because it displaces public parking from the nearest public roadway. This is not consistent with sections 30210 or 30214 as well. Coastal Act section 30210 requires that the provision of maximum public access consider public rights and the rights of private property owners. In this case, the land on which public parking is provided is public lands. Access to the beach is gained by traversing on public lands. And the beach itself is again on public lands. In no instance is the public trespassing onto private property. However, as proposed, implementation



of a preferential parking program would infringe on the rights of the public, the right of access to the coast. Thus, the Commission concludes that LUP policy P9-134 is not consistent with Coastal Act section 30210.

Similarly, Coastal Act section 30214 states that the access policies shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending upon the facts and circumstances in each case including the proximity of the access area to adjacent residential uses. At the time the City's made its application, only 16 of 61 homes that were noticed along Scenic Road and Del Mar Avenue were sent to Carmel addresses suggesting a low residency percentage at this location. Table 1 above provides a summary of request for calls for police service for the first nine months of 2002. There were 128 complaints during the hours unaffected by the parking ban (8:00 a.m. – 4:00 p.m.) and 131 complaints during the 4:00 p.m. – 12:00 a.m. time period. Beach fires and parking violations required the most responses. Parking violations result when a vehicle is parked in an illegal spot such as a red zone or handicap space or is greater than maximum allowed size class. Most of these occur during daylight hours when demand for parking spaces is strong. Beach fire violations result from having a fire in an area prohibited by the City or when they are not extinguished at 10:00pm. The City's beach fire requirements are confusing and not well signed. Coastal visitors unfamiliar with these requirements make up the bulk of these calls for service. Noise complaints followed up the parking and fire responses with 13 complaints during the 4:00 p.m. – 8:00 a.m. period or roughly 1.4 per month. There were 9 noise complaints during the day. Finally, there were a handful of other requests for service, though the numbers are insignificant (i.e., less than one per month). It is notable that there were no violent crimes reported over the past nine months. Several local juveniles did, however, vandalize the portable restrooms at the end of Scenic Road this past summer. Thus, with the exception of a very few incidents, most of the requests for police services were for minor infractions of the City's municipal code. Most could be addressed through educating the public about beach rules and regulations; the remainder are enforcement issues and not atypical of any California community. The information provided by the City does not support the need to regulate time and place of access as stringently as the City proposes. Therefore, LUP policy P9-134 is not consistent with Coastal Act section 30214 either.

The City has also argued that other nearby beach locales have been allowed to enact and operate parking restrictions and beach closures and is requesting that the Commission approve its preferential parking program. The nearest public beaches are Carmel River State Beach and Point Lobos State Reserve. Both are state owned and managed and have nighttime parking restrictions and beach closures that begin generally at sunset. However, both areas differ from a resource perspective than the City's urban beach setting. The estuary at the mouth of Carmel River is a designated Environmentally Sensitive Habitat Area that provides habitat for waterfowl. Point Lobos is a State Reserve that contains rare plant communities, endangered archaeological sites, and one of the richest marine habitats in California. For these reasons, the State



manages access to these resources in a manner that places a greater emphasis on resource protection during the evening consistent with the Coastal Act section 30214(3). From Point Pinos south to Carmel, there are few stretches of beach that are easily accessible and have adequate parking. Asilomar State Beach represents the public's best beach access opportunity along this stretch of coastline. Parking along Sunset Drive at Asilomar is restricted from 12:00am to 5:00am daily. The City of Monterey has also requested in its LUP resubmittal a limited parking restriction of midnight to dawn along its shoreline.

Finally, City staff has indicated the need for a preferential parking program to ensure that there was adequate parking for the beach side residents. Allowing that roughly three-quarters of the homes are vacant most of the time along Scenic Road and Del Mar Avenue, the City's argument is weak. Moreover, every home along Scenic Road has a parking garage and adequate driveway space to accommodate a minimum of two vehicles. Furthermore, Commission staff observed during visits to the area in the evenings, that there were an adequate number of available parking spaces along Scenic Road and the Del Mar Avenue parking lot for resident's guests and visitors alike. Thus, this argument is unconvincing.

This process began roughly two years ago when the City applied to the Commission to legitimize and expand the parking restrictions at Carmel Beach. At that time, City officials and residents predicted significant conflicts between visitors and residents would occur unless beach parking, and by extension, access to the beach was denied to all but the 61 shorefront residents along Scenic Road and Del Mar Avenue. This has not occurred, as the parking signs have been covered over the last 12 months. Based on the evidence provided by the City and over the course of many months of investigation and analysis, it appears the additional restrictions on public access due to the potential for public nuisance problems is unwarranted. As a result, LUP policy P9-134 implementing a preferential parking program from 10:30 p.m. – 5:00 a.m. along Scenic Road and the Del Mar Avenue parking lot is inconsistent with the Coastal Act.

Recommended Modification

The loss of coastal recreation opportunities resulting from the implementation of a preferential parking program represents a significant adverse impact to the availability of public access and recreational opportunities in Carmel. Defined broadly, these opportunities include not only the physical availability of access and recreation areas, but also the ability of the public to reach and utilize these sites. The recommended preferential parking policy contained in the Land Use Plan is inconsistent with the intent of the Access and Recreation policies of Chapter 3 of the Coastal Act. The City's LUP policy P9-134 states:

P9-134 Provide convenient and free public beach parking from 5:00 a.m. until 10:30 p.m. daily. Parking outside of these hours along Scenic Road and at the



Del Mar parking lot shall be limited to residents and guests with a resident's parking permit.

Although the Commission is unconvinced that a public parking ban is needed along Carmel Beach, it does recognize that certain benefits can accrue from enacting a limited overnight parking ban along Scenic Road. Thus, in order to insure the protection and provision of public access along with the consideration of public safety needs, the needs to protect public rights, rights of private property owners, and the protection of natural resources consistent with 30210, 30212, and 30214, staff is recommending that LUP policy P9-134 be modified to:

Modification 28 Provide convenient and free public beach parking from 5:00 a.m. until ~~4:30 p.m.~~ 12:00 midnight daily. Parking outside of these hours along Scenic Road and at the Del Mar parking lot shall be limited to residents and guests with a resident's parking permit.

Should the City insist on further restricting public access and parking along Scenic Road, one potential alternative would be to provide unrestricted public parking in the Del Mar lot and south of Santa Lucia on Scenic Road while allowing for restricted overnight parking elsewhere along Scenic Road. These areas can adequately accommodate public parking with minimal disturbance or inconvenience to residents. Therefore, based on the findings provided above including the recommended modification to policy P9-134 contained in the Land Use Plan, the Commission finds that the Public Access and Recreation policies contained in the Land Use Plan for the City of Carmel-by-the-Sea meets the requirements of and conforms to all of the Public Access and Recreation policies of Chapter 3 of the Coastal Act.

2. Abandonment of Public Roads and Road Right-of-ways

A second ongoing issue is the abandonment of public roads and road right-of-ways. Several segments of public property have been abandoned along a stretch of coastal dune between the Del Mar Avenue parking lot and 8th Avenue without the benefit of a coastal development permit. California Government Code Section 53036 prohibits local agencies from selling or abandoning public lands lying between the first public road and the sea without reserving the right of public access over such real property, unless an alternate route is made available granting equal or greater public access in the same immediate vicinity. The loss of this public property represents a significant loss of potential public recreational opportunities and as such has been elevated to a Coastal Act violation. Central Coast staff has been negotiating with the staff of the City of Carmel to resolve this issue but has been unsuccessful to date.

Recommended Modification

Coastal Act sections 30210 – 30213 require public access to the coast be protected



and sections 30221 – 30223 require protection of coastal recreational uses. As submitted, the City's LUP is silent on road abandonments and is therefore inconsistent with the Chapter 3 policies listed above. Additionally, LUP policy P9-101 states:

P9-101 Improve pedestrian circulation between the north end of the Beach Bluff Pathway at Eighth Avenue and the beach facilities at Ocean Avenue and Del Mar as part of the Del Mar and North Dunes Master Plan.

The Commission recommends the following modifications to bring the LUP into compliance with the Coastal Act:

Modification 29 (Revise P9-101) Improve pedestrian circulation between the north end of the Beach Bluff Pathway at Eighth Avenue and the beach facilities at Ocean Avenue and the Del Mar Avenue parking lot.

Modification 29A (New Policy) Abandonment or transfer of any public roadway or real property lying between the first public road and the sea shall not occur without reserving the right of public access over such real property unless an alternate route is made available to the public granting equal or greater public access to the Pacific Ocean in the same immediate vicinity.

As so modified by Modification 29 and 29A, the City of Carmel-by-the-Sea LUP is consistent with the Chapter 3 policies for provision of access and recreational opportunities.

3. Low-Cost Visitor-Serving Amenities

As stated previously, the City of Carmel-by-the-Sea and its magnificent beach and parks is a world-renowned destination for visitors from Central California, all 50 contiguous U.S. states, and the world. Overall, a wide variety of recreational opportunities exist within the City such as surfing, diving, hiking, beach-combing, window-shopping, nature study, and equestrian use. The City of Carmel provides a substantial number of lower-cost visitor-serving amenities within its roughly one square mile boundaries. It has been estimated that there is 1 visitor-serving room per every 3 homes in Carmel. It follows naturally that the City's LUP contains policies protecting the current balance of land uses including the mix of residential, commercial, and visitor-serving. However, the LUP is silent on preserving low cost visitor-serving amenities. The LUP does reference Coastal Act section 30213 at the beginning of the Access and Recreation chapter. It requires that lower cost visitor and recreational facilities be protected and encouraged and where feasible, provided. Due to the astronomical rising cost of property and increased rents in the City's commercial district, it is essential that low cost visitor and recreational facilities be protected. For this reason, the LUP cannot be considered consistent with 30213.



Recommended Modification

Coastal Act section 30213 requires low cost visitor and recreational facilities be protected and encouraged and where feasible, provided. As submitted the City's LUP is not consistent with this policy. Staff recommends adding the following new policy to the City's adopted LUP:

(Modification 30) Lower cost visitor and recreational facilities be protected and encouraged and where feasible, provided. Developments providing public recreational opportunities are preferred.

As modified, the City's LUP policies for the protection and provision low cost visitor serving amenities is consistent with Chapter 3 of the Coastal Act.

D. Hazards

Coastal Act Policies

The Coastal Act addresses coastal hazards through Coastal Act Sections 30235 and 30253. Coastal Act Section 30253 addresses the need to ensure long-term structural integrity, minimize future risk, and to avoid landform altering protective measures in the future. Section 30253 provides, in applicable part:

Section 30253. New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Coastal Act Section 30235 addresses the use of shoreline protective devices:

Section 30235. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Policy Summary

In sum, the Coastal Act requires that new development be constructed in such a



manner as to assure stability over its lifetime. Such stability is meant to be ensured at the time of construction; future stability problems are to be avoided by ensuring that adequate provisions are made at the time of construction to address coastal hazards. The Coastal Act also includes provisions for allowing shoreline armoring under certain circumstances.

In the case of Carmel, evidence to date does not indicate that there are any areas more prone to 30253 hazard issues than other Monterey Peninsula communities. The primary Coastal Act hazard issue in Carmel appears to be associated with shoreline hazards (including episodic and steady bluff retreat and erosion, storm wave and surf attack, and coastal flooding).

Under Section 30253, new development is to be designed, sited, and built to allow the natural process of erosion to occur without creating a need for a shoreline protective device. In other words, coastal zone development approved and constructed pursuant to 30253 should not require shoreline protection in order to "assure stability and structural integrity" because it was constructed with adequate setbacks and/or other measures in order to negate the need for future armoring.

Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or "hard" methods designed to forestall erosion also alter natural landforms and natural shoreline processes. Accordingly, with the exception of new coastal-dependent uses, Section 30235 limits the construction of shoreline protective works to those required to protect existing structures or public beaches in danger from erosion. The Coastal Act provides these limitations because shoreline structures can have a variety of negative impacts on coastal resources including adverse affects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach.

LUP Submittal

The proposed LUP includes a range of policies applicable to shoreline hazards and erosion response. The LUP also includes as an appendix a shoreline management plan (SMP) that includes hazard and erosion response components for the shoreline, and also includes information and policies relevant to public access, recreation, and other coastal resource issues associated with that area seaward of the first public road.

Analysis and Required Modifications

The submitted LUP generally responds to Coastal Act hazard policies, but it isn't entirely consistent with the Act in each case. There is also a lack of clarity and some internal inconsistency within the proposed policies that could lead to confusion when the LUP is implemented in the future. Such confusion would be at the expense of the coastal resources it is designed to protect. The following paragraphs discuss these deficiencies and offer suggested modifications to bring the LUP into conformance with



the relevant policies of the Coastal Act.

Coastal Act Section 30253 missing

The draft LUP omits reference to Coastal Act Section 30253 parts 1 and 2 in the Coastal Resource Protection Section where Coastal Act policies are listed. These Coastal Act Sections are relevant to ensuring the stability of new development, particularly ensuring that new shoreline development does not require additional shoreline protection measures in the future that could alter natural landforms. Fortunately, this issue can be easily addressed by including a reference to these Coastal Act sections in the applicable policies section of the LUP.

LUP's "Coastal Resource Protection" background section

The Coastal Resource Protection section background component includes a number of small inconsistencies, and some small errors. Fortunately, these can be easily corrected to ensure that the LUP accurately describes Carmel's coastal resource background by incorporating the following changes into the LUP:

- Pages 76-77: "Carmel, like..., appears to derives most of its sand..."
- Page 77, last paragraph: "If left unmanaged, the bluffs surrounding Carmel Bay would progressively erode from the impact of winter storm waves, and from surface drainage, and other steady and episodic erosion processes."
- Pages 77-78: "Erosion of Carmel's bluffs is quite variable along the shoreline and is includes both steady erosion and episodic events."
- Pages 78, second paragraph: Change the reference to Figure 9.7a to Figure 9.6.a.

In the Coastal Resource Protection section, the LUP asserts that historic shoreline structure development along the back beach has not led to the loss of beach sand at Carmel Beach. However, this assertion has not been well verified. Although some anecdotal evidence suggests that the cumulative sand supply impact from the almost complete armoring of the southern portion of the Carmel Beach bluffs over the years may be negligible, there has not been any exhaustive analyses that clearly prove this theory. Moreover, one recent study suggests that the width of the beach has decreased since 1949. Accordingly, the status of the beach resource as indicated in the LUP's background text, and on which the proposed policies are based, is not so clear cut. Fortunately, this issue can be easily addressed by including verbiage qualifying the status of the beach resource as understood from current information and studies.

LUP Figure 9.6a refers to "Public Coastal Protection Structures." As a result, it only maps a portion of the shoreline structures along Carmel's shoreline. Although the vast majority of such structures are public, there are also some private structures (e.g., at



the mouth of Pescadero Creek). The figure will thus tend to understate the extent of armoring and could, as a result, understate the extent of coastal resource impacts associated with same. To be as clear as possible, the figure should be amended to map all shoreline structures, and then to identify which of those are public versus private. Since SMP Figure 8 already does this, this issue can be addressed by inserting SMP Figure 8 as LUP Figure 9.6a

LUP Figure 9.6b is entitled "Sand Displacement and Deposition" and indicates that it maps "Sand Displacement and Replenishment." However, it is clear from the corresponding the LUP text (and from SMP Figure 9 that is more detailed) that this figure actually identifies areas where the City has historically manipulated beach sands by redistributing sand from the lower to higher beach elevations. While 'displacement' could be accurate, deposition and replenishment, as these terms are understood, has not historically been a part of the City's sand movement program. These inaccuracies can contribute to an incorrect understanding of the beach area resource, as similar to others above, that could lead to both incorrect policies and implementation of them in the future. Fortunately, this issue can be easily addressed by changing the title and the legend of Figure 9.6b.

Shoreline Armoring

The Coastal Act allows shoreline armoring only in specific circumstances. The policies suggested, while mimicking Coastal Act requirements in some respects, are internally inconsistent (e.g., P9-167 prohibits structures on the beach, while P9-161 and P9-162 allow them in certain situations; P9-161 and P9-162 establish different criteria from each other) and in some cases overly broad (e.g., P9-161 and P9-162 could be read to allow armoring in situations not envisioned by the Act).

Because the City's shoreline is relatively small, the policies should be very specific. In Carmel this boils down to decision points regarding when an armoring project is warranted, what needs to be done to ensure that allowable armoring projects are consistent with the established beach aesthetic and character, and sensitive to maintaining and preserving the beach and the overall beach recreational experience as directed by the Act. Armoring is allowed for existing endangered structures. In the case of Carmel, the Commission has previously recognized Scenic Road and the recreational trail system on the bluff above Carmel Beach as facilities worthy of such protection. Thus, the policies proposed provide a thorough basis, but can be clarified to ensure Coastal Act consistency and ease of implementation (both this LUP and a future IP) in the future.

In addition, the LUP contains a series of policies intended to help coastal managers better understand Carmel Beach dynamics. These policies are directly related to the LUP's Shoreline Management Plan (SMP) that was submitted as part of this proposed LUP. The SMP was a requirement of the CDP 3-00-140 (issued to the City for shoreline armoring), and built upon previous SMP-like requirements of other armoring permits



issued to the City. The previous SMP requirements are clear, and were developed to assist the City in just such plan development.

Part of the issue precipitating the SMP, as discussed above, is that it is not clear whether Carmel Beach is shrinking, and what effect shoreline development and armoring has had on this process. Although anecdotal evidence suggests that it is in a state of relative equilibrium, recent studies indicate that the beach may be retreating.⁶ Because the bluff has effectively been fixed along most of Carmel's back beach, beach retreat would eventually imply that Carmel Beach would no longer be present. The City has committed to analyzing the dynamics of the Carmel Beach, building upon their significant efforts to date, and to monitor beach erosion, particularly as it is affected by shoreline structures. The SMP goal and policies P9-157, P9-158, P9-159, and P9-160 are specifically related to this task. The same can be said for portions of policies P9-172, P9-173, P9-174. However, such plan development should be consistent with past Commission action and adequately responsive to the types of information necessary to understand the issue.

As to P9-157, P9-158, P9-159, P9-160, P9-172, P9-173, and P9-174, while generally appropriate, there are a few areas where these policies can be clarified to remove redundancy and to ensure that the analysis and studies are the most useful to the City and the Commission as they can possibly be, and as consistent with past Commission action on this issue as possible. And so that, ultimately, decisions are made as regards the irreplaceable treasure of Carmel Beach with this knowledge available. Thus, modifications are suggested.

Shoreline Management Plan

It is not clear at the current time how best to integrate the submitted SMP and its emergency action response plan into the LUP. Part of the reason for this is that the LUP is arranged by issue area, while the SMP is really more of a specific plan related to the shoreline, including a range of policies applicable to hazards as well as those applicable to ESHA, public access and recreation, and other shoreline issue areas. The SMP includes incredibly valuable background information on the Carmel shoreline and how to preserve it for future generations. Additional analysis is needed, however, to ensure that it integrates seamlessly into the LUP. This is particularly the case as it relates to the SMP's emergency action response plan inasmuch as it appears to pre-authorize development under particular conditions and outside of the coastal permit process. The SMP, and its more detailed information designed to clearly describe the steps necessary for the long term management of the Carmel shoreline, are better dealt with in the IP. A modification is thus suggested that the SMP be included in the IP, and removed from the LUP.

⁶ A recent article in the International Journal of Marine Geology reported that the beach width at Carmel Beach has narrowed noticeably in the last 40 years (C.D. Storlazzi, M.E. Field / Marine Geology 170 (2000) 289 – 316).



Long-term Stability

The LUP is lacking a general hazard policy that is unrelated to shoreline hazards. Such a policy is necessary to ensure that all development in the City, not just shoreline development, is constructed in such a way as to ensure its long-term stability, as directed by the Act. Fortunately, this is easily addressed by including a new policy applicable citywide

Hazard Conclusion

As modified by Modifications 31 - 52, the LUP can be found consistent with Coastal Act policies 30235, 30253(1) and 30253(2).

E. Water Resources

The following sections of the Coastal Act pertain to the management of available water supplies:

Section 30231. *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of wastewater discharges and entertainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30250(a). *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Section 30254. *New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted, consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded, except where assessment for, and provision of, the service would not*



induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services, and basic industries vital to the economic health of the region, state, or nation, public reaction, commercial recreation and visitor-serving land uses shall not be precluded by other development.

LUP Reference: Community Infrastructure, Water Resources

Background

Following the severe drought conditions in the late 1970's, voters in Carmel and elsewhere on the Monterey Peninsula, approved the formation of the Monterey Peninsula Water Management District (MPWMD) to regulate water resources on the Monterey Peninsula. The MPWMD regulates the collection, storage, distribution and delivery of water within the 170-square mile area of the district. All of the water used within the MPWMD comes from the Carmel River, from wells in the Carmel Valley, and the Seaside Basin. The MPWMD allocates water from these sources to the various water companies and smaller local jurisdictions.

The largest water distribution system in the Monterey Peninsula is operated by the California-American Water Company, which provides water to the City of Carmel and to nearly 95 percent of the 112,000 residents in the MPWMD. Cal-Am provides water to its users through groundwater extractions and diversions from the Carmel River via the Los Padres Dam. Both of these sources are currently being used at near or above their sustainable yield. Two threatened species, the California red-legged frog (*Rana aurora draytonii*) and the Steelhead (*Oncorhynchus mykiss*), are found in the Carmel River.

In 1995, State Water Resources Control Board Order 95-10 reduced the amount of water Cal-Am could take from the Carmel River aquifer by 20 percent in the near-term and up to 75 percent in the long-term. The MPWMD requested relief through the courts, but the Monterey County Superior Court upheld the 20 percent reduction in water use specified by the order. Since that time, the jurisdictions along the Monterey Peninsula, including the City of Carmel, have been under strict conservation measures, and have focused their efforts on improving water conservation programs while working on other water supply augmentation proposals that will garner community support and help Cal-Am attain the goals established by the Order.

State Order 95-10 also mandates that Cal-Am maintain production below 15,285-acre feet of water per year within the Cal-Am boundaries. All of this water is already allocated to current users or proposed construction that has already been approved, and no additional water source is presently available to serve Cal-Am customers within the district.



A 1998 report on the estimated future water needed for buildable legal lots of record on vacant parcels within the Cal-Am service area states that approximately 923 acre-feet of water would be needed for new buildings as of January 1997 and remodels through the year 2006 (MPWMD 1999 Annual Report). The MPWMD has since been working on completing an update of this report, and while the 2001 update is not yet published, the agency has determined that approximately 1,400 acre-feet of water would be needed for the existing vacant legal lots of record on unimproved parcels within the MPWMD boundaries. Additional water needed for unincorporated County areas with existing vacant legal lots of record that have some improvements on them (such as small sheds or other such structures) have not yet been calculated. However, it is expected that the total water requirement would be somewhat greater than 1,400 acre-feet.

At this time, no new supply of water is on the horizon. Cal-Am and the MPWMD, however, are currently searching for additional water supplies. Possible alternative strategies include implementation of groundwater injection (e.g., storage of excess water from the Carmel River in the Seaside Coastal Basin during winter months), desalinization of seawater, wastewater recycling (i.e., using reclaimed wastewater for irrigation purposes), and additional water conservation efforts that include retrofitting or replacing water-using appliances and fixtures and drought resistant landscaping.

Carmel, like all the cities on the peninsula, has little or no unallocated water for new development according to City Planning Staff. As there are very few vacant lots in the City of Carmel, most new development involves the demolition of older buildings and the subsequent construction of replacement structures. In order to ensure that the City stays within their allocation, these replacement buildings must demonstrate that they will not use additional water beyond that used by the demolished structure. Although the replacement buildings, particularly new homes, are often significantly larger than the demolished structures, water parity is maintained by the use of water conserving fixtures and landscaping that does not require extensive irrigation.

Given that water is an important coastal resource, especially within the Monterey Peninsula area where water supplies are extremely limited, it is vitally important that the LUP contains policies that adequately regulate development to protect water resources. These policies must be consistent with Coastal Act policies requiring that new urban development be located in urban areas with adequate public services, and ensure that certain types of coastal-related development not be precluded by other development when public services are limited.

LUP Policies

The Carmel LUP contains a number of policies directed to the preservation and allocation of water in the City. (Pages 40-41. LUP) These policies ensure that new and



existing development will comply with the various water conservation policies relevant to fixtures and landscaping and City coordination with other cities and agencies to monitor the allocations and seek new sources of water. (Policies G9-3, 09-6, P9-35, P9-37, P9-38, P9-39, P9-40, P9-41, and 09-7). These policies are mostly consistent with the policies in the Coastal Act that require the protection of water resources and that new development should be directed to existing areas able to support it through adequate public services (PRC 30231 and 30250 (a)). Water supplies are so limited, however, that a stricter policy on the use of native (and thus less needful of irrigation) plants in new development landscaping is needed. Please see modification 59.

The LUP also contains two policies that establish priorities for water allocations when supplies for new development are very limited as is the case now. Policy P9-36 gives priority for water to residential uses and to Municipal projects. In contrast, the Coastal Act, in Section 30254, gives priority to *"coastal dependent land use, essential public services, and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation and visitor-serving land uses."* In the case of Carmel, there is no existing development that is "coastal dependent" and none is planned for in the LUP. Carmel is also not developed with any basic industries and no land is designated for such use in the LUP so these Coastal Act priority land uses are not relevant to Carmel and thus don't need to be given any priority for scarce water supplies. Carmel is, however, a popular visitor destination and has significant public recreation facilities and visitor serving development. Virtually all of the land designated for such uses is built out with those uses and as currently developed, there is neither room nor need for much additional public recreational or visitor serving development with the exception of the planned permanent restrooms on Scenic Drive. In order to ensure that these uses are not precluded in the future and Coastal Act consistency is achieved, policy P9-36 must be revised to provide for the reservation of water capacity for these types of development. As revised by Suggested Modification 53 to acknowledge these priorities, the policy is consistent with the requirements of Coastal Act Section 30254. Proposed policy P9-43 must also be revised to be consistent with the proposed modifications to P9-36. (Please see Suggested Modification 54)

As discussed in a preceding section of this report, most of the new development in Carmel is, and will continue to be, demolitions and re-builds because the City has virtually no unallocated water. Coastal Act Section 30250(a) requires that new development must be able to be served by adequate public services. In order to comply with this requirement by ensuring that the City's water allocation will not be exceeded, new replacement development cannot require more water the development it replaces. Proposed Policies P9-42 and P9-44 partially address this issue but more specific policy language is needed to ensure consistency. Suggested Modifications ensure that all new development will be carefully analyzed to ensure that it remains within the available water allocated to the use it replaces. (Please see Suggested Modifications 56 and 57)



Section 30250(a) requires urban uses to be served by public services for water and sewer service. Carmel is entirely urban. Public water service is provided by the Cal Am Water Company, a privately owned purveyor that is regulated by the public through the PUC. This policy derives from one of the most fundamental principles of the Coastal Act, as well as modern urban and environmental planning: *the establishment and maintenance of stable urban/rural boundaries for the protection of sensitive resources and to provide for the rational planning of public services to support new urban development.*

In particular, the benefits of urban/rural boundaries include the prevention of urban sprawl, protection of agricultural land, efficient use of land, and the rational planning and construction of urban infrastructure (e.g., roads, utilities, and sanitation systems) to support urban intensities of land use. Urban-level intensity land uses are then directed to locate within urban areas, preserving rural lands for low intensity rural land uses. Certainly the services that are required to support urban uses (e.g., water supply and storage/conveyance/treatment systems, sewer connections, wastewater treatment plants, etc.) are greater and different than those needed for rural land uses (e.g., small wells and individual septic systems). Coastal Act policy 30250 states this premise as follows:

Section 30250(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources... [Emphasis added].

This policy provides that if an urban area lacks critical infrastructure - e.g., water, sewer, or road capacity - to support further urban development, then new development must be delayed until the capacity of the limited service can be increased, through a comprehensive urban planning process, in order to support it. It does not mean that urban uses should proceed incrementally, using what are essentially rural-level services (e.g., private wells and septic systems). The proliferation of rural services within an urban area causes practical problems (e.g., wells run dry, lot sizes are too small to accommodate septic systems) and planning problems. Ultimately, incremental development without comprehensive planning may lead to serious environmental resource impacts such as groundwater overdraft, polluted groundwater, degraded riparian habitat, and so on.

Since water supplies are limited, the City has been very careful to ensure that all new development can be served by public water and keep within their allocation from Cal Am and the Monterey Water District. In most cases, authorization of private wells or private desalination facilities within this public service area, whether for potable water or supplemental non-potable water for irrigation purposes, would be contrary to the



planning principals discussed above and could lead to potential cumulative impacts which undermine Cal-Am's ability to provide adequate water supplies to existing service connections within the Monterey Peninsula Water Management District. Suggested Modification 54 is needed to ensure that the Coastal Act requirement that urban uses be served by public utilities is met.

Finally, Section 30254 of the Coastal Act limits the capacity of public infrastructure to be consistent with planned build out of urban areas rather than allow these facilities to be oversized, which would promote urban sprawl. In the event that a desalination plant is ever chosen as a method to increase the public water supply, a policy limiting it's size is needed to meet the requirements of Section 30254. (Please See Suggested Modification 58)

Therefore, as revised by Suggested Modifications 53 through 59, the Water Resources Section of the Carmel LUP can be approved as consistent with the cited Coastal Act policies.

F. Water Quality Coastal Act Policies

Section 30230 of the Coastal Act states that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Background

Carmel-by-the-Sea lies within and at the bottom of the Carmel River watershed.



Runoff from the City flows into Carmel Bay, which is designated both as an Area of Special Biological Significance (ASBS) in the California Ocean Plan, and as a California Fish and Game Ecological Reserve. It is also part of the Monterey Bay National Marine Sanctuary. An ASBS is an area designated by the State Water Resources Control Board that requires special protection of species or biological communities that could be impacted by water quality degradation. As discussed in the Public Access finding, Carmel Beach and the shoreline also is a highly popular public recreation area. Maintaining and restoring water quality throughout the Carmel River watershed, and in this case, Carmel's urban landscape, is necessary to protect these sensitive coastal resources.

The Commission shares responsibility for regulating non-point source water pollution in the Coastal Zone of California with State Water Resources Control Board (SWRCB) and the coastal Regional Water Quality Control Boards (RWQCBs). The Commission and the SWRCB have been co-leads in developing and implementing the January 2000 Plan for California's Non-point Source Pollution Control Program (Plan), which outlines a strategy to ensure that management measures and practices that reduce or prevent polluted runoff are implemented over a fifteen-year period. Some of these management measures and practices are best implemented at the local planning level, since they can be most cost effective during the design stage of development.

The Commission and the Central Coast Water Quality Control Board (CCWQCB) are both working to protect water quality in the Carmel area, although each has different authorities and responsibilities in that effort. The Commission has primary responsibility for protecting many coastal resources, including water quality, from the impacts of development in the coastal zone. The SWRCB and RWQCBs have primary responsibility for regulating discharges that may impact waters of the state through writing discharge permits, investigating water quality impacts, monitoring discharges, setting water quality standards and taking enforcement actions where standards are violated.

Carmel LUP as Submitted.

The City's amended LUP submittal includes a variety of important policies to address water quality issues. These include policies to develop a City-wide Storm Water Utility Program that will also address the City's need to implement a National Pollution Discharge and Elimination System permit; policies to regulate illegal discharges; watershed protection policies to retain natural drainages; restore areas beneficial to water quality; and so forth.

The submitted LUP also includes development policies that require the protection of natural drainage systems, site planning to address drainage and polluted runoff, and the use of Best Management Practices (BMPs). Specific standards include requirements to: design post-construction BMPs to infiltrate and/or treat, storm runoff; minimize impervious surfaces; use a water quality checklist in project reviews; and



incorporate BMPs into commercial developments. Please see pages 117-124 for the entire listing of LUP water quality policies submitted by the City.

Coastal Act Consistency

The Commission recognizes that new development in Carmel-by-the-Sea has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources. Coastal Act Sections 30230 and 30231 listed above require that coastal water quality be protected through policies that manage these types of new development impacts.

In particular, new development often results in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on project sites. As discussed in the community character finding, redevelopment activity in Carmel has the potential to lead to increased impermeable surface, particularly on the smaller, 4000 square foot lots in the City where typically small structures are located. In the last several years the Commission has reviewed permits for residential demolition and rebuilds that have generally resulted in significant increased impervious coverage. For example, in the last year the average proposed increase in site coverage on 4000 square foot lots was approximately 375 square feet or 9%. This includes, though, a wide range of proposed changes in coverage, including some projects that reduced coverage slightly to projects that increased coverage by over 70% or greater than 1000 square feet.

The reduction in permeable surface therefore leads to an increase in the volume and velocity of storm water runoff that can be expected to leave the site. The cumulative effect of increased impervious surface is that the peak stream discharge is increased and the peak occurs much sooner after precipitation events. Changes in the stream flow result in modification to stream morphology. Additionally, runoff from impervious surfaces results in increased erosion, sedimentation, and non-point source pollution. Recently, a study prepared by the Pews Oceans Commission discussed the link between increasing impervious surfaces and degraded water quality:

Land conversion rates are profoundly important in light of recent research on aquatic ecosystems. A variety of studies during the past decade converge on a central point: When more than ten percent of the acreage of a watershed is covered in roads, parking lots, rooftops, and other impervious surfaces, the rivers and streams within the watershed become seriously degraded. . . .

If the percentage of the coast that is developed rises sharply (from 14 percent to 25 percent) over the next 25 years, these studies point to an irreversible decline in coastal aquatic ecosystem health.

The report acknowledges that site coverage is but one component of the land use-



water quality nexus, but it does underscore the importance of minimizing impervious site coverage overall.

In a setting such as Carmel, where informal street design (no curbs and gutters generally; unpaved road edges, etc.) and drainage are the norm, increased site runoff could have a significant impact on existing runoff patterns, ultimately resulting in increased erosion and a future need to manage runoff through engineered drainage structures. Thus, minimizing impervious coverage is essential to both protecting water quality, and maintaining the informal streetscape of Carmel.

Maintaining permeable surfaces and managing runoff onsite also helps to limit the impacts of pollutant runoff. Pollutants commonly found in runoff associated with new development include:

- petroleum hydrocarbons such as oil and grease from vehicles;
- heavy metals;
- synthetic organic chemicals including paint and household cleaners;
- soap and dirt from washing vehicles;
- dirt and vegetation from yard maintenance;
- litter and organic matter;
- fertilizers, herbicides, and pesticides from household gardening or more intensive agricultural land use;
- nutrients from wastewater discharge, animal waste and crop residue; and
- bacteria and pathogens from wastewater discharge and animal waste.

The discharge of these pollutants to coastal waters can cause cumulative impacts such as:

- eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size;
- excess nutrients causing algae blooms and sedimentation increasing turbidity, which both reduce the penetration of sunlight needed by aquatic vegetation that provide food and cover for aquatic species;
- disruptions to the reproductive cycle of aquatic species;



- acute and sub-lethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and
- human diseases such as hepatitis and dysentery.

These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes, reduce optimum populations of marine organisms and have adverse impacts on human health. They are particularly important to manage in the vicinity of significant marine resources such as Carmel Bay – an Area of Special Biological Significance and Ecological Reserve.

As summarized above, Carmel's submitted LUP contains a comprehensive set of water quality policies designed to protect and enhance water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. The objectives of the policies are three-fold:

- Protect, enhance and restore wetlands, streams, and groundwater recharge areas.
- Promote the elimination of pollutant discharge, including non-point source pollution, into the City's waters through new construction and development regulation including but not limited to site planning, environmental review and mitigation, and permit conditions of approval.
- Promote Best Management Practices to limit water quality impacts from existing development, including septic system maintenance and City services.

With the exception of two areas, --minimizing impervious surfaces, and managing polluted runoff -- these policies contained in the Carmel LUP provide for the protection and enhancement of water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. Thus, as submitted, with the exception of the policies discussed below, the LUP is consistent with the water quality protection policies of the Coastal Act (30230, 30231).

Modifications

Minimizing Impervious Surfaces

As discussed above, minimizing impervious surfaces is critical to maintaining and protecting water quality in Carmel. As discussed in the Community Character finding, it is also critical to protecting the urban forest and informal streetscape of Carmel – both essential pieces of Carmel's unique community character.

The City has submitted a water quality policy that requires the new development minimize development footprints and directly connected impervious surfaces, as well as the increase in new impervious surfaces. The LUP also includes a policy to require new development to protect the absorption, purification, and retention functions of



natural systems on the site of proposed developments. Nonetheless, given the critical importance of this issue to the protection of water quality, particularly on the smaller, more constrained 4000 square foot lots of Carmel, it is necessary that the LUP have a specific impervious surface limitation for the small lot scenario. Without such specific limitation, it will be more likely that the small lots of Carmel will redevelop over time with more impervious surfaces, and that the cumulative impacts of these surfaces on water quality will be substantial.

Modification 7, therefore, requires that non-permeable surface on the 4000 square foot lots not exceed 50% or 2000 square feet. Such a limitation allows for a reasonable development envelope on these lots, while assuring that at least half of the available site area is available for natural percolation, as well as for the design of on-site drainage features. As previously discussed, most redevelopment projects in Carmel are resulting in increased impervious surfaces. In the last year, 4 out of 7 proposed redevelopment projects proposed impervious surface coverage greater than 50% (ranging from 55% to 65%). Three other projects, though, were proposed at less than 50%. Thus, it is reasonable and feasible to limit coverage in this way. In conjunction with other proposed limits to protect community character, this limit also provides reasonable development options even with the 1600 square foot single story house. Thus, such a project would have an additional 400 square feet of impervious surface to work with, which might include, for example, a driveway of 150 square feet, and 250 square feet of walkway and outdoor patio surface.

Finally, it should be emphasized that this water quality modification also supports and works with the community character policies of the modified LUP that seek to protect the small scale look and feel, as well as the urban forest resources, of Carmel's residential neighborhoods. The coverage limitation will also assure that the informal streetscapes of Carmel do not gradually convert to hardscapes, with concrete gutters and other drainage features made necessary by increased impervious surfaces the watershed. Given the significant potential for redevelopment in Carmel, and the associated increases in coverage that will occur, even with the proposed limitations of the modified LUP, a specific coverage limitation is the only mechanism to assure water quality protection over the long run. Therefore, to assure consistency with Coastal Act sections 30230 and 30231, Modification 7 is necessary to require the 50% coverage limit on the 4000 square foot lot.

Managing Polluted Runoff

The Commission finds that the application of appropriate methods and design goals for sizing BMPs is critical to the successful function of post-construction treatment Best Management Practices (BMPs) in removing pollutants in storm-water to the maximum extent practicable. The majority of runoff is generated from small storms because most storms are small. Additionally, storm-water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small more frequent storms, rather than for the large infrequent



storms, results in optimal BMP performance at lower cost.

The Commission also finds that sizing the proposed post-construction structural BMPs to accommodate the storm-water runoff from the 85th percentile storm event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs). Therefore, the Commission requires that the proposed post-construction structural BMPs (or suites of BMPs) shall be designed to infiltrate and/or treat, the amount of storm-water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. As submitted, the City of Carmel has not provided a specific design goal for BMPs, although it does have a policy generally addressing the treatment and filtering of runoff. Therefore, to assure consistency with Coastal Act sections 30230 and 30231, Modifications 60 - 66 are necessary.

Conclusion

As modified above, the Carmel-by-the Sea LUP includes a comprehensive and adequate set of policies to meet the goal of protecting and enhancing water quality of local coastal waters and ground waters from adverse impacts related to development. These policies specifically provide for minimizing impermeable surfaces and the requirement of Best Management Practices (BMPs) related to siting and design of the project and the post-construction phase of the project. It supports the Commission's view that all development has the potential to impact water quality, and that site design and source control measures can often mitigate such impacts, decreasing the need for structural treatment controls. Therefore, the Commission finds that the LUP water quality policies as modified are consistent with Coastal Act sections 30230 and 30231.

G. Environmentally Sensitive Habitat

Coastal Act Sections 30107.5, 30231, and 30240 define ESHA and afford protection of such areas and their associated biological productivity, and state:

Section 30107.5 *Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Section 30231. *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial*



interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240. *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Additional Section 30233 in part provides wetland protection as follows:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:...

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

Although the City of Carmel-by-the-Sea is largely built out over most of its acreage, it does contain some areas of environmentally sensitive habitats. The proposed Land Use Plan re-submittal does an adequate job of ensuring that ESHA is protected pursuant to the Coastal Act policies.

First, the Land Use Plan identifies known ESHA in the City. The introduction to the Coastal Resource Protection chapter (pages 83 –92) and Appendix E: ESHA Study map describes the City's ESHAs including Monterey pine forest, wetlands, riparian forest, wet meadow, and coastal terrace prairie, and known occurrences of special-status plant and wildlife species, including Hickman's onion, and Monterey dusky footed woodrat. These are located in Pescadero Canyon, Mission Trails Nature Preserve, and Carmel beach. The Commission notes that although Monterey Pine in Pescadero Canyon is appropriately identified as ESHA, it is not identified as a Special Status Species. This is apparently because when Appendix E was writing in 1995, it did not yet



have that status. Now it is universally recognized as a Special Status Species (CNPS 1B, Federal Species of Concern). The Commission biologist has reviewed the ESHA appendix and concurs that ESHA has been appropriately identified and described. The analysis is based on the Coastal Act definition of ESHA and has identified those areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Second, the Land Use Plan provides for identification of additional ESHA in the future (Policies G9-22; P9-256), and also makes it clear that the maps show just currently designated ESHA (page 84).

Third, the Land Use Plan provides for protection of ESHA from most new development. Most of the ESHA is designated "Open Space." Public recreational and cultural uses and activities that are compatible with the natural resources are allowed (page 29). Policy 9-256 mimics Coastal Act language to "protect environmentally sensitive habitat areas against any significant disruption of habitat values. Only uses dependant upon those resources shall be allowed." Additionally, the Land Use Plan provides many very specific management measures for the three main ESHA areas to ensure that the public development is compatible with resource protection.

Private lots in ESHA are allowed limited single-family development to address Constitutional takings issues (Policy P9-323). However, the Land Use Plan also provides for transfer of development credits (Policy P9-313) and/or public acquisition programs (see policy citations below) to hopefully prevent the remaining private ESHA parcels from developing.

In addition to the noted open space areas, Monterey pine (and other) trees occur throughout the City. The Land Use Plan contains numerous policies designed to maintain these trees (through not cutting them, appropriate pruning, avoidance of root damage, and other measures) and planting new ones. Appendix D is a detailed Forest Management Plan that covers the entire City.

Fourth, the Land Use Plan provides for buffers to ESHA consistent with Section 30240b. One-hundred foot buffers to riparian areas for chemical applications are established (Policy P9-315), as is a minimum 50 foot development buffer for Pescadero Creek (Policy P9-323). The ESHA appendix further indicates that a 100-foot buffer is recommended for Pescadero Creek (page 5-11 of Appendix ESHA Study) and mitigation measures are required for adjacent development (page 5-11 of Appendix ESHA Study). The Land Use Plan also commits to a program of notifying residents adjacent to ESHAs of protective measures (Policy P9-317). Elsewhere, a 30-foot ESHA buffer is required (Figure 9.7; page 5-24 of Appendix ESHA Study), including specifically a 30-foot vegetation buffer along the perimeter of Mission Trail Nature Preserve (Policy P9-321).

Finally, the Land Use Plan provides for many maintenance, rehabilitation, and



improvement measures to ensure that ESHA remains vibrant. Examples of such measures include restoring native dune habitat (Policies P-9-181; P9-329), controlling invasive non-natives (Policy P-9-182), pruning so as not to disturb nesting birds (Policy P9-240). Almost all ESHA is within City owned land and the cited policies and others represent a commitment to maintain the City's ESHA. Furthermore, several policies (e.g., O9-35, P9-199, O9-46, P9-310) commit the City to acquiring additional existing or potential habitat areas.

However, there are two areas of concern within Appendix E, the Mission Trails Nature Preserve Master Plan: 1) the deletion of an objective to enhance the Preserve's wetlands by encouraging the channelized ditch to revert to a more natural channel; and 2) the declaration that the ESHA boundary could not be extended beyond the Preserve boundaries. As noted elsewhere in the LUP, the benefits to maintaining natural drainage patterns include absorption, filtering, and conveyance of storm water, provision of habitat, and enhancing visual resources. The Master Plan allows for maintenance of the natural channel to ensure public safety and protect structures threatened by erosion. However if allowed to be entirely channelized, along with decreasing habitat values, the natural functioning of the drainage will diminish which may actually exacerbate the problems that were intended to be prevented. Secondly, it is well known and understood that ESHA boundaries rarely follow manmade distinctions and thus, precluding ESHA from extending beyond the boundaries of the Preserve would not be consistent with Coastal Act policies protecting ESHA. Therefore, since Appendix E is an attachment of the submitted Land Use Plan, the Commission recommends modifications 69 and 70 to bring the Mission Trails Nature Preserve Master Plan into conformance with the Coastal Act.

In conclusion, the sum total of cited and related policies will ensure protection of ESHA consistent with the cited Coastal Act policies.

Finally, there are two structural problems with the Land Use Plan ESHA related policies. Appendices A-1 through A-4 of the Forest Management Plan contain outdated ordinance references. These need to be evaluated in the context of the Implementation Plan and cannot be certified at this time. Section IV of the Forest Management Plan repeats policies of the Coastal Resources chapter, but fails to update all those that reference the City Forester (as opposed to the Forest, Parks, and Beach Director). Therefore, modifications (see Modification 62 and 63) are necessary to correct and update these deficiencies. If so modified, the Land Use Plan will be fully consistent with Coastal Act ESHA policies.

H. Development

Coastal Act Section 30250 states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such



areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

The Land Use Plan has a map and text, which designates land use categories throughout the City, consistent with the Coastal Act mandate to indicate kinds, locations, and intensities of land use. Generally, there is a commercial core surrounded by residential neighborhoods. Carmel-by-the-Sea is within the urbanized Monterey Peninsula. Except for the current lack of water, described in Finding E above, the proposed intensity of and locations of development is consistent with Coastal Act policies to concentrate development in urban areas with available services.

I. California Environmental Quality Act (CEQA)

Section 21080.9 of the Public Resources Code (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with a Local Coastal Program (LCP). Instead, certification of an LCP by the Coastal Commission is subject to the requirements of CEQA. The Coastal Commission's regulatory program involving the preparation, approval and certification of local coastal programs has been certified by the Resources Agency under Public Resources Code Section 21080.5 as the functional equivalent of CEQA review. As a result of this certification, the Coastal Commission is exempt from the requirement of preparing an EIR in connection with a local coastal program. As set forth above, the Commission finds that the Carmel-by-the-Sea Land Use Plan as modified conforms with the Coastal Act policies regarding protection of the environment. The Commission finds that approval of the modified Land Use Plan will not result in significant adverse environmental impacts within the meaning of CEQA. The Commission further finds that there are no feasible alternatives or additional mitigation measures that would substantially lessen any significant adverse impact on the environment from approval of the Land Use Plan as modified.



CALIFORNIA COASTAL COMMISSION

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W11**November 2, 2000 (for November 15, 2000 Hearing)****To:** Coastal Commissioners and Interested Persons**From:** Tami Grove, Central Coast Deputy Director**Subject: Coastal Development Review and LCP Completion/Protection of Community Character in the City of Carmel-by-the-Sea****Summary**

Recent development trends have raised concerns about the preservation of the unique community character in the City of Carmel-by-the-Sea. Although the City does not have a certified Local Coastal Program (LCP), most development in Carmel is excluded from Commission review by virtue of a categorical exclusion adopted in 1977. Residential demolitions, though, are not excluded from coastal development permit requirements. Such demolitions, and the subsequent replacement homes, have the potential to impact Carmel's community character, particularly if a demolition is proposed for a structure that has special historical significance, architectural style and scale, or if the replacement structure itself does not fit with Carmel's unique character. As of the date of this staff report, there are approximately 17 projects involving residential demolitions pending in the Commission's coastal development review process; the majority of these applications are already (or are about to be) filed and require timely Commission review. These projects have been postponed until the December hearing, to allow for Commission consideration of the question of community character preservation prior to their disposition—and to provide direction to Commission staff accordingly.

Until recently, the Commission has been processing residential demolitions as administrative permit items, or even with coastal development permit waivers, without a public hearing *per se*. The basis for this review was the staff conclusion that residential demolition projects were not individually or cumulatively degrading Carmel's character, in part because of the rigorous local review of such projects, and because no significant character concerns were raised in each specific case evaluated. Where concerns have been raised, particularly about the historical character of buildings, the Commission has issued administrative or regular coastal development permits with appropriate conditions to preserve historical or characteristic elements of such structures.

Carmel's unique character is defined by multiple factors, including the tree canopy and informal streetscape, the scale and style of residential buildings (including the "Carmel cottage"), historical character, and so forth. However, without specific elaboration of this character through a certified Local Coastal Program, it is difficult to conclude whether the Coastal Act requirement to protect community character is being met. The City is currently working to complete its LCP for submittal to the Commission – the target for the Land Use Plan is April 2001, with the complete LCP submitted in December 2001.

Until then, though, for each application approved, the Commission must make a specific finding that such approval would not prejudice the completion of a Local Coastal Program that conforms with Coastal Act



policies. Thus, the Commission must continue to process demolition permits in such a way as to not significantly impact Carmel's special community character.

As discussed below, there are several alternatives for doing so. Because of the rigor of the City's local review process, and assuming no significant change in current demolition trends, it may be reasonable to continue to exercise best professional Commission staff judgment of individual cases approved by the City, but at a higher level of public scrutiny (i.e., public hearings on the Commission's consent calendar for most cases, on the regular calendar if substantial issues of coastal resource protection are evident). This approach may be adequate for addressing the mandate of Coastal Act Section 30253 to protect community character, at least for the limited time until the LCP is completed.

Another approach would entail a much more rigorous consideration of Coastal Act Section 30604(a), the section that requires that coastal development approvals not prejudice the preparation of an LCP. Such approach would entail Staff recommendations for denial on all projects that would significantly change such aspects of Carmel's character as building scale and style, the native tree canopy, or potentially historical structures. While the recommendations would still depend on the facts of each case, the denial recommendations would be accompanied by recommended findings that the changes proposed by the applicant would – at least on a cumulative basis – prejudice the completion of an LCP that meets the community character protection goal of Coastal Act Section 30253.

Overview of LCP Status in Carmel

The City of Carmel-by-the-Sea is located entirely within the coastal zone but does not yet have a certified LCP. The Commission approved a Land Use Plan (LUP) and an Implementation Plan (IP) at different times in the early 1980s, but the Commission's suggested modifications were not accepted by the City. Thus, both the LUP and the IP remain uncertified. Ordinarily, this would mean that the Commission would assume the role for reviewing all development within the City for compliance with the Coastal Act. However, in 1977 the Commission authorized a broad-ranging categorical exclusion within the City of Carmel (Categorical Exclusion E-77-13) that excludes from coastal permitting requirements most types of development not located along the beach and beach frontage of the City.

The City's categorical exclusion was based primarily upon the belief that: (1) there was limited potential for additional development within City limits that would impact coastal resources, given that there were (and are) scarce few vacant parcels; and (2) the City's rigorous review of development proposals would ensure that any so excluded development would be protective of coastal resources in Carmel. Demolitions, though, which tend to raise more concern about the preservation of community character, were not excluded under the order.

The City is currently working on a new LCP submittal (both LUP and IP), funded in part by an LCP completion grant recently awarded by the Commission. The City has made progress on the LCP submittal and—as noted above—has indicated the Land Use Plan is expected to be submitted for Commission review in April 2001, with the Implementation Plan submittal expected by December 2001. However, until the Commission has certified the entire LCP submittal, the Commission retains coastal permitting authority over non-excluded development within the City.



Coastal Resources in the City of Carmel

The City of Carmel-by-the-Sea lies entirely within the coastal zone, and is home to a rich variety of coastal resources protected by the Coastal Act. These include the spectacular public beach and recreational amenities along the City's frontage, the urban forest that uniquely identifies Carmel as the "Village in the Forest," the substantial riparian and habitat areas (such as Mission Trails Nature Preserve and Pescadero Canyon), and the unique community and visual character of Carmel as exhibited by the style, scale, and rich history of its residential, commercial, and civic architecture. Taken as a whole, these resources combine to form the special character of Carmel – a significant coastal resource worthy of protection in its own right.

Applicable Coastal Act Community Character Policies

The Coastal Act requires that the special character of communities such as Carmel be protected. Sections 30253(5) and 30251 of the Act state:

Section 30253(5). *New development shall where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Section 30251. *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality on visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

It is often stated that Carmel, along with such other special coastal communities as the town of Mendocino, is one of the special communities for which Coastal Act Section 30253(5) was written. Indeed, Carmel has been, and remains today, a spectacular coastal resource known the world over as an outstanding visitor destination as much for the character of its storied architecture, as for its renowned shopping area and white sand beach. In part, Carmel is made special by the character of development within City limits.

In particular, as a primarily residential community, the web of residential development in Carmel plays a key role in defining the special character of the City. Carmel is distinctly recognized for its many small, well-crafted cottages. These modest, sometimes quaint residences are associated with the era in which Carmel was known for its resident artists and writers, and functioned as a retreat for university professors and other notables. These little homes were nestled into the native Monterey pine/Coast live oak forest, on a grid of streets that was executed in a way that yielded to trees more than to engineering expediency. This was the context for Carmel's community life and its built character.



Development in Carmel under the Coastal Act – A Growing Concern

Over time, Carmel has been changing as its older housing and commercial stock makes way for new, usually larger in size and scale, developments. Based on the Commission's permit tracking database, there have been almost 600 development applications reviewed by the Commission since 1973 in the Carmel area.¹ The overwhelming majority of these involved residential development of one sort or another ranging from complete demolition and rebuild to small additions to existing structures. Of these 600 or so applications, roughly 5 were denied, 25 withdrawn, and about 20 are currently pending; the rest were approved. Unfortunately, due to potential data entry issues with the older data in the Commission's database, this information over the last quarter century should be viewed as background contextual information to the issue only. In addition, due in part to the City's categorical exclusion, it is not clear how many projects involving substantial remodel (but not complete demolition) have taken place since 1977 that would not be present in the Commission's database. In any case, although the City was not able to determine numbers since 1973 with any degree of certainty, the City indicates that it processes far more remodels than demolitions.

In contrast, the Commission's database for the period since 1990 is fairly robust. Although there may be a few projects that weren't entered into the system, the database is a fairly accurate representation of coastal permit applications in Carmel since 1990. As such, the period since 1990 can provide a more meaningful sample for understanding the change issue in Carmel.

Since 1990, there have been 177 development proposals in Carmel. Of these, 145 projects (or over 80%) involve some form of demolition, rebuilding and/or substantial alteration of residential housing stock in Carmel. This comes out to roughly 13 such residentially related projects per year since 1990; nearly all of these have been approved. Other than the three year period from 1992 – 1994 when a total of 13 applications were received, the number of development proposals in Carmel has been fairly constant until 2000. However, in the year 2000 alone, the Commission has received 44 applications so far to date; a full quarter of all applications received by the Commission for development in Carmel in the last decade. Of these 44 applications received in the year 2000, 33 of these involve some form of demolition, rebuilding and/or substantial alteration of residential structures; 16 of the 33 have already been approved this year and 17 remain pending. More applications are arriving as this is written. Clearly the trend for demolition/rebuild/substantial remodel has been magnified in current years as demand for Carmel properties has outstripped the limited supply represented by the approximately 3,200 parcels within the City limits.

Although demolition of existing residential buildings in Carmel is not a recent phenomenon, a series of demolitions in the recent past, and a larger than usual influx of new applications, have engendered controversy over whether or not an existing house represents the historical, architectural, and environmental character of Carmel; and if a replacement house detracts from Carmel's character because of a modern design, tree removal, proposed house size, or other characteristics. City planners now

¹ There is some uncertainty with the data collection due to incomplete data collection and entry for earlier years of Commission permitting. Notwithstanding, there is a clear trend of residential demolition and redevelopment in the City of Carmel.



estimate that as much as one-third of the existing housing stock is comprised of “antiquated” structures, although not all older homes contribute anything in particular to the community’s “special character.” The demolition phenomenon impacts both those structures worth saving, and those that are not. Nonetheless, hundreds of worthy cottages remain. Some have historical credentials, and some – because of their architectural character and context – are contributing characters on the stage.

It is not clear to what extent the history of such demolition/rebuild/remodel has altered the special community character aesthetic of Carmel. A comprehensive cumulative impact assessment of such a trend has not been conducted to date, which would require considerable effort to review local development permitting files and actions. There is little doubt that structures within the City have generally been getting larger. However, up to now, and based on the City’s rigorous design review process as well as Commission staff’s best professional judgement, Commission staff has concluded that the City’s character would not be adversely affected (individually or cumulatively) by the demolitions proposed to date. As such, Commission staff has generally recommended approval (either through formal recommendations to the Commission, administrative permits, or through a determination that a waiver of coastal permit requirements was in order) for such proposed demolitions over the years.

At the Commission’s request, and in tandem with research by the City, Commission staff has looked anew at the issue of demolition/rebuilds in Carmel. Based on this analysis, staff cannot absolutely ensure that continuation of this interpretation will protect the special character of Carmel as required by the Coastal Act. Part of the reason for this is that although the elements that define the City’s character can be generally described (e.g. “Village in the forest”, architecture, beach area, etc.), it has not been determined how these elements interact to make Carmel special. In other words, Carmel’s community character has not yet been defined. The reason for this is because such a definition, as well as a means to adequately protect such character consistent with the Act, is best determined through a community and Commission review process culminating in a certified LCP. As previously described, although such a process is ongoing in Carmel, the LCP has not yet been completed.

Alternatives for Evaluation of Carmel Coastal Development until LCP Completion

As discussed, the City of Carmel does not have a certified LCP. Nonetheless, most coastal development is excluded from permit review by the 1977 categorical exclusion. There is little doubt that the best alternative for addressing the Carmel community character concern is the completion of the LCP. The LCP planning process is the appropriate mechanism for defining and evaluating community character in Carmel. By community development of policies, standards, and development guidelines, and submission for Coastal Commission review, the policy goal of 30253 to protect community character can be resolved.

Staff also does not recommend that the categorical exclusion be removed or modified. Such an effort would take time and resources away from completion of the LCP, which should be given the highest priority in light of limited staff resources. In addition, the City has a well-developed local review process that to date has been understood to be protecting the coastal resources of concern in the excluded area. More important, areas of Carmel where development might impact significant resources, such as along the shoreline, are not excluded. Finally, to the extent that any issues might be raised by the continued implementation of the exclusion, time and effort should be allocated to these issues through the



development and completion of the LCP. (See Exhibit B for more detailed discussion of the categorical exclusion, provided by the City.)

In terms of the more specific issue of community character, the City is currently in the middle of a community planning process to determine, among other things, the basis for defining Carmel's community character and ways to protect and preserve this character consistent with the Coastal Act. There is no question that the demolition of structures in the City if continued indefinitely would significantly change the City of Carmel. However, because community character has not yet been clearly defined, the effect of such change on Carmel's character is unclear when evaluated against the policy objectives of the Coastal Act.

The Coastal Act provides guidance for such a situation. Section 30604(a) of the Coastal Act states

*Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) **and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200).** A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion. [emphasis added]*

Given this Coastal Act requirement, how should non-excluded coastal development be processed by the Commission until completion of the LCP? As already mentioned, the best way to protect community character in Carmel is for the City to complete, and the Commission to certify, an LCP for Carmel. In terms of the Coastal Act, this has been and remains the ultimate and best solution to addressing community character concerns in Carmel. With that in mind, Commission staff seeks guidance with respect to the several alternative approaches that could be implemented by Staff until such time as a LCP has been certified for the City of Carmel. :

Option 1: Continue on a Best Professional Judgement Basis Pending LCP Completion

Under this option, Commission staff would continue to bring forward recommendations on individual projects based on Staff's best professional judgement as to whether the proposed project: (1) would adversely, on an individual and/or cumulative basis, impact the community character of the City of Carmel; (2) would adversely impact any other applicable coastal resources; and (3) would prejudice the City's ability to prepare a LCP consistent with the Act. Based upon the facts of individual cases, staff would either recommend for approval or for denial. In terms of community character, staff would consider the variables described above (mass, scale, trees, history, architecture, etc.) in a way that relies heavily the City's own findings to arrive at a recommendation. This method is akin to the process that staff has been using up to and including the October 2000 hearing. An example of this process is shown in Exhibit C, a typical staff report involving demolition in Carmel from the September hearing (which was approved as an administrative permit). Under this option, Commission staff would schedule any Carmel demolition



applications for full public hearings, either on the regular or consent calendar as appropriate (i.e., there wouldn't be any waivers and/or administrative permits for the typical residential demolitions in Carmel).

Under this method in the past, Commission staff has generally recommended approval (either through formal recommendations to the Commission or through a waiver of coastal permit requirements) for the vast majority of proposed demolitions in Carmel over the years. Part of the reason for this has been the City's rigorous design review and forestry review processes. Together, these processes have for the most part resulted in replacement structures of a similar ilk to that which make up the basic fabric of the City. Staff would be relying in large measure on this existing City review process and ordinances to address community character concerns. Under this approach, Staff would expect that the majority of proposed projects in Carmel in the future would continue to be recommended for approval. In fact, of the 17 applications involving residential demolition currently pending at the Commission level, 11 have been reviewed to the level that would allow for Staff to formulate a preliminary recommendation; of this subset, 9 would be recommended for approval (as submitted) under this method.

Implicit in this approach is the hypothesis, based on staff's best professional judgement to date, that the cumulative adverse effect on community character has been and will continue to be insignificant. In the event the Commission receives more than the approximately 3 demolition applications per month that it has been averaging most recently, it is not clear that the insignificant cumulative adverse effect hypothesis will remain supportable. In fact, one might expect that if the Commission were to pursue such a policy, a spike in demolition proposals may be generated in response to anticipated future limitations on demolition proposals imposed by the e Commission and/or the City. However, it is as difficult to predict such an effect with any degree of certainty as it is to predict the outcome of the City's LCP planning process vis-à-vis community character. In any event, each proposal would be evaluated based upon the relative facts of the case and a decision rendered.

Option 2: The "No Significant Character Changes Until LCP Completion" Approach

Under this scenario, the Commission would strictly apply the "no prejudice" approach required by the Coastal Act by asking whether proposed development within Carmel would significantly change the status quo. The idea here is that if approved development does not unduly change what is present in Carmel now, then the as-yet-to-be-defined community character of Carmel would not unduly change either. In this way, any decision that the Commission would take would not lead to changed character and thus would not be expected to prejudice City efforts to come to grips with defining – and appropriately protecting – this character.

In order to objectively identify those proposals that would *not* result in significant change, a set of common sense, narrowly defined change criteria would be applied to applications received by the Commission. These change criteria would be based on a set of factors (including scale, trees, history, architectural style) known to contribute to the City's special community character as follows:

Would the proposed project:

- Result in a 10% or greater increase in the gross square footage, height, or footprint (site coverage) from that which is currently present?



- Result in the removal of any significant (i.e., 6" or greater in diameter) native pine, willow, cypress, or oak trees? Or, even if no trees are removed, involve sufficient limb removal to be a significant loss of forest canopy?
- Modify a structure deemed to be a historic resource by the City, the State Office of Historic Preservation, or other public agency?
- Involve a structure greater than 50 years old for which the City has not performed a historic resource assessment?
- Not identify a City-approved replacement structure (i.e., speculative demolitions)?

If the answer to any of the above change criteria is yes, the Staff recommendation would be for denial of the proposed project on the grounds that: community character has not yet been defined through the City LCP process; the project would change the character of the City to some degree; because community character remains undefined, the effect of such a project on Carmel's character is unclear; that allowing such a project in the face of such uncertainty over its impact on such a special coastal resource would be imprudent, particularly since the City is well underway in the process of preparing their formal LCP submittal to the Commission; and, because the Commission cannot guarantee that such a project would protect the heretofore undefined community character resource, allowing such a project at this point would prejudice the City's LCP planning process; accordingly, the finding required by Coastal Act Policy 30604(a) can not be made and the application must be denied.

Such a denial would be without prejudice to the proposed project inasmuch as it would be a procedural denial based on the need to protect the City's ability to finish their LCP. This approach would recognize that these permit decisions have the potential—at least cumulatively if not individually—to undermine the potential options for developing and implementing protective policies. Once the City's LCP is finished, and ultimately certified by the Commission, any such denied projects could be resubmitted for review by the City in accordance with the applicable LCP standards. Until that time, however, the staff would recommend that the Commission not approve such projects.

The only exception to such a rule would be in the case of existing structures that are not habitable and/or determined to be public safety hazards—and are clearly not capable of repair, rehabilitation, or other on-site reuse.

Under this scenario, Staff would expect that the majority of proposed demolition projects in Carmel would fail one or more of these tests and would be recommended for denial. In fact, of the 17 residential demolition applications currently pending and preliminarily reviewed by Commission staff, only 4 would be recommended for approval. Staff is not as clear about the range of currently excluded development that would likewise fail these tests. Until the LCP is certified, Staff would expect that, under this approach, demolition applications to the Commission would taper off as potential project proponents come to



understand the Commission's position on prejudicing the LCP and the objective, common sense criteria used to measure community character change.

In any case, staff would schedule any Carmel demolition applications for full public hearings on the regular calendar if the recommendation were to be for denial, and on either the regular or consent calendar if the recommendation is for approval.

Option 3: Other

There may be other approaches, including permutations of those above, that will address community character concerns in Carmel. These range from granting waivers to most of the demolition projects that have been through the City's own design and forestry review processes (as staff did prior to September of this year), to even more rigorous approaches that set the bar at an even higher level. For example, additional "change factors" that could be considered are:

- Any demolition that would facilitate an increase in residential density (a common type of application is to demolish one house that straddles two parcels, to allow a replacement house on each parcel);
- Demolition of any building on the Carmel Preservation Society's historic structure inventory lists; and,
- Any demolition that would facilitate replacement of traditional architecture style in favor of contemporary or modernistic styles (from the visitor's perspective, rustic cottage and Craftsman styles are those most likely representative of Carmel's architectural traditions).

Conclusion

The City of Carmel is a unique coastal jewel, for which the Coastal Act dictates protection of its special community character. This character is generally agreed to be shaped by the City's spectacular public beach, the urban forest dominated by native Monterey pines, the substantial riparian habitat areas, and the unique visual character of Carmel as exhibited by the style, scale, and rich history of its residential, commercial, and civic architecture. However, the necessary standards and measures to protect this special character have not yet been clearly defined by the City's LCP planning process nor certified by the Commission. Part of the reason for this is that Carmel's character is not necessarily expressed by any one aspect, whether that be historical, architectural, environmental, or something else, but is rather a combination of several different aspects, all of which work together synergistically to create the unique ambiance of the City. The correct recipe for protecting this ambiance is not easily derived.

Because of this, the Commission finds itself in the difficult position of making judgements on what will, and what will not, adversely affect this special character of the City absent a certified LCP. Without a clear definition for Carmel's community character established through the LCP, the question of what to be



done in the interim to both protect such character and not prejudice the City's LCP efforts, remains unresolved.

It appears that the Commission has two basic options, with potentially multiple permutations, for approaching this question. As discussed above, these polarities are the 'no changes' option (deny all projects that would significantly alter the character of any particular lot), and the 'best professional judgement' option (trust but verify the City's existing review processes). Staff believes there are valid reasons to support either of these options. Therefore, Staff is asking for guidance from the Commission as to how to proceed.

Upon direction from the Commission, staff will implement whichever approach is agreed upon by the Commission and will bring forward the approximately 17 pending applications as soon as possible. It appears that at least 9 of the applications (including the 6 continued from September) would be scheduled for the December hearing in San Francisco.

Exhibits

Exhibit A: City of Carmel-by-the-Sea location

Exhibit B: City of Carmel-by-the-Sea Response to Issues Raised at the October Commission Hearing

Exhibit C: Example of Staff Methodology – Administrative Permit 3-00-095 (Clendon)





CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT

ACCESSORY DWELLING UNIT HANDBOOK

March 2026



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ADUs in California

Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) are innovative and effective options for adding much needed housing in California. Since 2016, State ADU Laws have continued to evolve to further lower barriers to the development of more affordable housing as the Legislature works to address the housing crisis across the state. As these laws change, HCD's goal is to ensure consistency and clarity in the application of these laws through education, technical assistance, and enforcement.¹

Benefits of ADUs

ADUs provide a wide range of benefits, including:

- ADUs are an **affordable** type of home to construct in California because they do not require paying for land, major new infrastructure, structured parking, or elevators.
- ADUs can provide a **source of income** for homeowners.
- ADUs are often built with **cost-effective wood frame construction**, which is significantly less costly than homes in new multifamily infill buildings.
- ADUs allow **extended families** to be near one another while maintaining **privacy**.
- ADUs can provide as much **living space** as many newly built apartments and condominiums, and they're suited well for individuals, couples, small families, friends, young people, and older adults.
- ADUs give homeowners the **flexibility** to share independent living areas with family members and others, allowing older adults to age in place.

Indeed, Californians are increasingly recognizing the benefits of ADUs, and ADUs are making a difference. Between 2016-2024, the number of ADUs permitted annually in the state grew from 1,336 to 30,354, a 20-fold increase. In 2024, ADUs comprised more than 26.6 percent of all homes permitted statewide.

ADUs as an Infill Development Strategy

ADUs are, by definition, created in areas that are already developed but where land may be underutilized. Moreover, restrictions on parking requirements for ADUs that are located near transit create further incentives to build ADUs, particularly in places that provide easy access to jobs and other amenities, further reducing reliance on vehicles.

As a result, ADU construction is a key infill development strategy that contributes to, among other things, reducing greenhouse gas emissions and improving air quality by reducing the distance people need to travel; reducing conversion of agricultural land, sensitive habitat, and open space for new development; reducing costs to build and maintain expensive infrastructure; and facilitating healthy and environmentally friendly active transportation.

In light of changing laws around ADUs and the growing importance of this housing type, HCD has updated this ADU Handbook and continues to be committed to facilitating housing production at all income levels.

¹ This updated ADU Handbook references the law as amended by recent legislation that went into effect on January 1, 2026.

The California Department of Housing and Community Development

With the vision that one day, every California resident can live, work, and play in healthy communities of opportunity, it is the mission of HCD to provide safe, affordable homes and vibrant, inclusive, sustainable communities for all Californians. HCD accomplishes this by increasing and preserving the supply of affordable places to live in California and by creating effective solutions to the housing crisis through policy and research.

Housing Accountability Unit

California's housing crisis has reached historic proportions despite the passage of numerous laws intended to increase the supply of housing affordable to Californians at all income levels. As part of the 2021-2022 state budget, HCD received additional staff to grow its accountability efforts and formed the Housing Accountability Unit (HAU). While education and technical assistance are always the first step in HCD's accountability efforts, the HAU holds jurisdictions accountable for meeting their housing element commitments and complying with state housing laws. Violations of state housing laws, including State ADU Law, may lead to consequences, including revocation of housing element certification and referral to the California Office of the Attorney General.

Technical Assistance

There may be uncertainty, or a need for education at the local level about how to comply with state law, especially as state laws evolve. HCD provides technical assistance to property owners and developers who are seeking to create ADUs, as well as to advocates, local agencies, and other interested parties.

Any questions regarding the application of State ADU Law may be submitted to HCD via the online [ADU Portal](#). Please provide as much detail as possible in the online form. HCD may request additional information, including, but not limited to denials and communications from the local agency.

Local agencies seeking assistance or submitting an ADU ordinance to HCD, must also use the online portal.

For questions beyond what this Handbook provides, stakeholders are encouraged to contact their local permitting agency (e.g., city or county) or private attorney.

Enforcement of State ADU Law

Since 2016, HCD has had statutory authority to review local agencies' ADU ordinances, and as of January 1, 2024, HCD also has the authority to enforce all State ADU Laws. HCD's ADU team reviews local ordinances for compliance with State ADU Law and sends findings letters and, when necessary, may escalate its enforcement. To ensure consistency, the HAU works closely with other HCD divisions.

The ADU team is committed to supporting the public, local agencies, and partner agencies with understanding and complying with State ADU Law.

Glossary

66323 Units

One of the four delineated types of ADUs (and JADUs) that must be permitted pursuant to Government Code section 66323. **Source:** Government Code section 66323

Accessory Dwelling Unit (ADU)

An attached or a detached residential dwelling unit that provides complete, independent living facilities for one or more persons, and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is, or will be, situated.

An ADU also includes the following:

- (A) An efficiency unit.
- (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

Source: Government Code section 66313, subdivision (a)

Accessory Structure

A structure that is accessory and incidental to a dwelling located on the same lot. **Source:** Government Code section 66313, subdivision (b)

Applicant

The person or party responsible for the submittal of an application seeking a permit.

Application

A formal request to perform work, which includes all information as required.

Certificate of Occupancy

A document issued by local California Building and Safety departments which certifies that a commercial space or newly constructed residential building has been inspected for compliance with the California Building Standards Code and local ordinances which govern construction and occupancy. **Source:** 2025 California Residential Code section R110

Common Interest Development

Any of the following:

- (a) A community apartment project.
- (b) A condominium project.
- (c) A planned development.
- (d) A stock cooperative.

Source: Civil Code section 4100

Covenants, Conditions, and Restrictions (CC&Rs)

A set of rules governing the use of a certain piece of real estate in each community. "Governing documents" includes declarations, bylaws, operating rules, articles of incorporation, or articles of association, which govern the operation of the common interest development or association. **Source:** Civil Code section 4150

Efficiency Dwelling Unit

A dwelling unit which contains a minimum of 190 square feet in living space, a separate closet, kitchen sink, cooking appliance, refrigerator, and a separate bathroom containing a water closet, lavatory, bathtub, or shower. **Source:** Government Code section 66313, subdivision (a)(1); 2025 California Building Code section 1208.4

Habitable Space

A space in a building for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces. **Source:** 2025 California Building Code section 202.

High Quality Transit Corridor

A corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. **Source:** Public Resources Code section 21155, subdivision (b)

Impact Fee

“Impact fee” has the same meaning as the term “fee” as defined in subdivision (b) of Section 66000, and includes the fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation. **Source:** Government Code section 66311.5, subdivision (c)(2)

Interior Livable Space

A space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation. Livable space includes bedrooms, bathrooms, kitchens, laundry rooms, closets, and interior stairs. **Source:** Government Code section 66313, subdivision (e)

Junior Accessory Dwelling Unit (JADU)

A unit that is no more than 500 square feet in interior livable space and contained entirely within a single-family residence. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure. **Source:** Government Code section 66313, subdivision (d)

Living Area

The interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure. **Source:** Government Code section 66313, subdivision (f)

Local Agency

A city, county, or city and county, whether general law or chartered. **Source:** Government Code section 66313, subdivision (g)

Major Transit Stop

A site containing any of the following:

- (a) An existing rail or bus rapid transit station.
- (b) A ferry terminal served by either a bus or rail transit service.
- (c) The intersection of two or more major bus routes with a frequency of service interval of 20 minutes or less during the morning and afternoon peak commute periods.

Source: Public Resources Code section 21064.3

Manufactured Home

A structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. **Source:** Health and Safety Code section 18007, subdivision (a)

Ministerial Approval

Considered and approved without discretionary review or a hearing. **Source:** Government Code section 66317, subdivision (a)

Multifamily Dwelling

For the purposes of State ADU Law, a structure with two or more attached dwelling units on a single lot is considered a multifamily dwelling structure. Multiple detached single-family dwelling units on the same lot are not considered multifamily dwelling units for the purposes of State ADU Law. Please note, this does not affect the number of units allowable under Government Code section 66323, subdivision (a)(4), which allows ADUs on a lot with a multifamily dwelling structure, but requires the ADUs to be detached from the multifamily dwelling structure, not *within* the multifamily dwelling structure.

Nonconforming Zoning Condition

A physical improvement on a property that does not conform with current zoning standards. **Source:** Government Code section 66313, subdivision (h)

Objective Standards

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 applicant or proponent and the public official prior to submittal.

Source: Government Code section 66313, subdivision (i)

Passageway

A pathway that is unobstructed, clear to the sky, and extends from a street to one entrance of the ADU. **Source:** Government Code section 66313, subdivision (j)

Permitting Agency

Any entity that is involved in the review of a permit for an ADU or JADU, and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts. **Source:** Government Code section 66313, subdivision (k)

Planned Development

A real property development other than a community apartment project, a condominium project, or a stock cooperative, having either or both of the following features:

- (a) Common area that is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.

(b) Common area and an association that maintains the common area with the power to levy assessments that may become a lien upon the separate interests in accordance with Article 2 (commencing with Section 5650) of Chapter 8. **Source:** Civil Code section 4175

Proposed Dwelling

A dwelling that is the subject of a permit application and meets the requirements for permitting. **Source:** Government Code section 66313, subdivision (l)

Public Transit

A location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public. **Source:** Government Code section 66313, subdivision (m)

Qualified Buyer

Persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. **Source:** Government Code section 66340, subdivision (a); Health and Safety Code section 50093

Qualified Nonprofit Corporation

A nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program. **Source:** Government Code section 66340, subdivision (b)

Reasonable Restrictions

Restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an ADU or JADU.

Reasonable restrictions shall not include any fees or other financial requirements. **Source:** Civil Code section 4751, subdivision (b), and Civil Code section 714.3, subdivision (b)

Single-Family Dwelling

For the purposes of State ADU Law, a single-family dwelling is a single unit providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and existing as a separate interest of real property, such as a detached single-family dwelling or a townhouse.

Substandard Building

Any building or portion thereof, or premises on which the building is located, in which there exists any of a long list of conditions that endanger the life, limb, health, property, safety, or welfare of the public or occupants thereof. **Source:** Health and Safety Code section 17920.3

Tandem Parking

Two or more automobiles that are parked on a driveway or in any other location on a lot, lined up behind one another. **Source:** Government Code section 66313, subdivision (n)

Summary of Recent Changes to ADU Law



In Government Code section 66310, subdivision (d), the California Legislature declared that allowing ADUs in zones that allow single-family and multifamily uses provides additional rental housing and is an essential component in addressing California's housing needs. Over the years, State ADU Law has been revised to improve its effectiveness in creating more housing units. Major changes to State ADU Law between 2023 and 2026 further reduced barriers to the development of ADUs and JADUs. Within this context, HCD developed – and continues to update – this Handbook

to assist local governments, homeowners, attorneys, architects, and the public in understanding and applying the requirements of state law. Below is a summary of recent legislation that amended State ADU Law.

Please visit <https://leginfo.legislature.ca.gov> for the complete statutory changes.

All local permitting agencies and interested parties should review the amendments to California law, effective between 2023 and 2026, regarding the creation of ADUs and JADUs.

2022 legislation includes the following changes to State ADU Law (effective January 1, 2023):

Assembly Bill (AB) 2221 (Chapter 650, Statutes of 2022, Section 1) and Senate Bill (SB) 897 (Chapter 664, Statutes of 2022, Sections 2.5, 4, 5, and 6) built upon recent changes to State ADU and JADU Law and further addressed barriers to the development of ADUs and JADUs. Due to SB 897 being chaptered after AB 2221, section 2.5 of SB 897 incorporated amendments to ADU Law proposed by both SB 897 and AB 2221.

- **Objective Standards.** Requires local agencies to only impose objective standards on ADUs, which “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” of an ADU permit application. (Gov. Code, § 66313, subd. (i). See *also* Gov. Code, §§ 66314, subd. (b)(1); 66323, subd. (g).)
- **Detached Garages.** Allows ADUs detached from the proposed or existing primary dwelling, including in detached garages (Gov. Code, § 66314, subd. (d)(3)).
- **Occupancy Change.** Provides that the construction of an ADU does not constitute a Group R occupancy change under the local building code, unless the local agency makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety (Gov. Code, § 66314, subd. (d)(8)).
- **Fire Sprinklers.** Precludes ADU construction from triggering a requirement that fire sprinklers be installed in the existing primary dwelling (Gov. Code, § 66314, subd. (d)(12)).

- **Permitting Process.** Requires a permitting agency to either approve or deny (replacing the former language “act on”) an application to create or serve an ADU or JADU within 60 days from when a completed application is received, if there is an existing single-family or multifamily dwelling on the lot (Gov. Code, §§ 66317, subd. (a)(3); 66335, subd. (a)(3)).
- **Concurrent Permitting.** Clarifies that permitting agencies may concurrently approve or deny a proposed ADU and new single-family or multifamily dwelling when submitted simultaneously for permitting. The application for the ADU shall be considered without discretionary review or hearing. Clarifies that permitting agencies may concurrently approve or deny a proposed JADU and new single-family dwelling when submitted simultaneously for permitting. (Gov. Code, §§ 66317, subd. (a)(3); 66335, subd. (a)(3).)
- **Permitting Agency Denials.** Obligates a permitting agency, when it denies an ADU or JADU application, to “return in writing a full set of comments to the applicant with a list of items that are defective or deficient, and a description of how the application can be remedied by the applicant” within 60 days from when a completed application is received. (Gov. Code, §§ 66317, subd. (b); 66335, subd. (b).)
- **Demolition Permits.** Adds a requirement for a local agency to review and issue a demolition permit for “a detached garage that is to be replaced with an ADU” at the same time it reviews, and issues permits for, the ADU construction. (Gov. Code, § 66314, subd. (e).) Also prohibits permitting agencies requiring applicants to “provide written notice or post a placard for the demolition of a detached garage ... unless the property is located within an architecturally and historically significant district.” (Gov. Code, § 66314, subd. (f).)
- **Zoning & Setbacks.** Prohibits a local agency from requiring “a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.” (Gov. Code, § 66321, subd. (b)(3).)
- **Detached ADU Height Allowances.** Establishes a base height limitation of 16 feet for detached ADUs (Gov. Code, § 66321, subd. (b)(4)(A)). Increases the maximum height limitation on a detached ADU to 18 feet if the ADU is “either within a half-mile walking distance of a major transit stop or a high-quality transit corridor” and provides for an additional two feet for roof pitch to align with the roof pitch of the primary dwelling unit.” (Gov. Code, §§ 66321, subd. (b)(4)(B); 66323, subd. (a)(2)(B).) Increases the height to 18 feet for a detached ADU that is “on a lot with an existing or proposed multifamily, multistory dwelling.” (Gov. Code, § 66321, subd. (b)(4)(B).)
- **Attached ADU Height Allowances.** Establishes the maximum height limitation that may be imposed by a local agency on an attached ADU to 25 feet, or the existing primary dwelling height limit if lower than 25 feet. Does not require a local agency to allow an ADU to exceed two stories (Gov. Code, § 66321, subd. (b)(4)(D)).
- **Parking Requirements.** Prohibits local agencies from imposing parking in a number of specific circumstances (Gov. Code, § 66322, subd. (a)).

- **Zoning Nonconformance & Building Code Violations.** Prohibits local agencies from denying an ADU permit due to the correction of “nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.” (Gov. Code, § 66322, subd. (b).) The prohibition was also added to Government Code section 66336 to apply to JADUs.
- **Multifamily Dwellings.** Prohibits a permitting agency from requiring “any modification of the existing multifamily dwelling as a condition of approving the application to construct an accessory dwelling unit” if the existing multifamily dwelling has “a rear or side setback of less than four feet...” (Gov. Code, § 66323, subd. (a)(4)(B)).
- **Permitting Agency Definition.** Adds definition of a permitting agency as “any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.” (Gov. Code, § 66313, subd. (k).)
- **Unpermitted ADUs.** Precludes a local agency from denying a permit for an unpermitted ADU that was constructed before January 1, 2018, because the ADU violates building standards or because the ADU does not comply with State ADU Law or a local ordinance. (Gov. Code, § 66311.7, subd. (a).) This prohibition does not apply if the local agency makes a finding that “correcting the violation is necessary to protect the health and safety of the public or occupants of the structure” (Gov. Code, § 66311.7, subd. (b)) or to a building that is deemed substandard pursuant to Health and Safety Code section 17920.3 (Gov. Code, § 66311.7, subd. (c)).
- **Enclosed Uses.** Considers enclosed uses within the residence, such as attached garages, to be “a part of the proposed or existing single-family residence” for the purposes of JADUs (Gov. Code, § 66333, subd. (d)).
- **JADU Separate Entrance.** Requires a JADU without a separate bathroom to “include a separate entrance from the main entrance to the proposed JADU, with an interior entry to the main living area.” (Gov. Code, § 66333, subd. (e)(2).)

2023 legislation includes the following changes to State ADU Law (effective January 1, 2024):

AB 976 (Chapter 751, Statutes of 2023) and AB 1033 (Chapter 752, Statutes of 2023) made changes to State ADU Law. AB 1332 (Chapter 759, Statutes of 2023) added Government Code section 65852.27 to expedite the approval of ADUs. AB 434 (Chapter 740, Statutes of 2023) modified Government Code section 65585 to require enforcement of State ADU Law, the legalization of unpermitted ADUs, and lot split / duplex laws, among others.

- **Owner Occupancy.** Removes the existing 2025 sunset of the prohibition on owner-occupancy requirements and instead mandates no owner-occupancy requirement for ADUs (Gov. Code, § 66315). Authorizes a local agency to adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and ADU(s) as condominiums (Gov. Code, § 66342).

- **Pre-Approved ADU Plans.** Requires the local agency to develop a program for the preapproval of ADU plans by January 1, 2025. The local agency shall accept ADU plan submissions for preapproval from any party and shall approve or deny applications pursuant to standards established in Government Code sections 66314-66331. The local agency shall post preapproved ADU plans and the contact information of the applicant on the local agency's website. The local agency may also post plans pre-approved by other local or state agencies. (Gov. Code, § 65852.27.)
- **Enforcement Authority.** Amends Government Code section 65585, subdivision (j), by adding to the list of laws about which HCD is authorized to notify a local jurisdiction or the Attorney General when the local jurisdiction fails to comply with those laws, including Chapter 13 (commencing with Section 66310) and Government Code sections 65852.21, 65852.24, 65852.28, 65913.4.5, and 66411.7, among others.

2024 legislation includes the following changes to State ADU Law (effective March 27, 2024, and January 1, 2025):

SB 477 (Chapter 7, Statutes of 2024) made changes to the numbering of the government code sections related to ADU and JADU Law. AB 2533 (Chapter 834, Statutes of 2024) and SB 1211 (Chapter 296, Statutes of 2024) made changes to State ADU Law.

- **Updated Government Code Sections.** Government Code sections related to ADU and JADU law were updated from 65852.2, 65852.22, 65852.23, and 65852.26 to Government Code sections 66310-66342.
- **Unpermitted ADUs and JADUs.** Changes the date from January 1, 2018, to January 1, 2020, such that a local agency is precluded from denying a permit for an unpermitted ADU that was constructed before January 1, 2020, because the ADU violates building standards or because the ADU does not comply with State ADU Law or a local ordinance. (Gov. Code, § 66311.7, subd. (a).) A local agency shall inform the public about the provisions of this section through public information resources, including permit checklists and the local agency's internet website, which shall include both of the following: (1) a checklist of the conditions specified in Section 17920.3 of the Health and Safety Code that would deem a building substandard, and (2) information that, before applying for a permit, the homeowner may obtain a confidential third-party code inspection from a licensed contractor to determine the unit's existing condition or potential scope of building improvements before applying for a permit. (Gov. Code, § 66311.7, subd. (d)(1), (d)(2).)
- **Objective Standards.** Prohibits a local agency from imposing any objective development standards on 66323 Units that are not authorized by the provisions of Government Code section 66323, subdivision (a).
- **Livable Space.** Defines "livable space" as a space in a dwelling intended for human habitation, as the term appears in Government Code sections 66313, subdivision (e), and 66323, subdivision (a)(3)(A).
- **Uncovered Parking.** Specifies that uncovered, off-street parking spaces demolished in conjunction with the construction of an ADU do not need to be replaced.
- **Detached ADUs.** Authorizes up to eight detached ADUs on a lot with an existing multifamily dwelling, provided that the number of ADUs does not exceed the number of existing units on the lot.

2025 legislation includes the following changes to State ADU Law (effective June 30, 2025, October 10, 2025, and January 1, 2026):

AB 1154 (Chapter 507, Statutes of 2025), SB 9 (Chapter 510, Statutes of 2025), SB 543 (Chapter 520, Statutes of 2025), AB 462 (Chapter 491, Statutes of 2025), and AB 130 (Chapter 22, Statutes of 2025) made various changes to State ADU Law.

- **Updated and Added Government Code Sections.** Government Code sections related to ADU and JADU Law were updated from 66324, 66327, and 66332 to sections 66311.5, 66313.5, and 66311.7, respectively. Additionally, Government Code section 66333.5 was added.
- **JADU Owner Occupancy.** Clarified that if a JADU has shared sanitation facilities with the primary structure, owner-occupancy will be required. If the JADU does *not* have shared sanitation facilities, owner occupancy will *not* be required (Gov. Code, § 66333, subd. (b)). Additionally, made changes that stipulate JADUs can no longer be used as short-term rentals and, if rented, must now be rented for longer than 30 days (Gov. Code, § 66333, subd. (g)).
- **Local Ordinance Requirements.** Clarified that if a local agency fails to submit an adopted ADU ordinance to HCD within the 60-day timeline or fails to respond to HCD's findings regarding its ordinance within the 30-day timeline, that ordinance is null and void and the local agency must only apply State ADU Law when permitting ADUs (Gov. Code, § 66326, subd. (d)). Additionally, section 66333.5 was added, which specifies that if a local agency fails to submit an adopted JADU ordinance to HCD within the 60-day timeline or fails to respond to HCD's findings regarding their ordinance within the 30-day timeline, that ordinance is null and void and the local agency must only apply State ADU Law when processing applications for JADUs.
- **Application Requirements.** Required a permitting agency to determine whether an application for an ADU or JADU is complete and provide written notice of the determination no later than 15 business days after the permitting agency received the application (Gov. Code, § 66317, subd. (a)(2)(A)). If an application is determined to be incomplete, the permitting agency must provide the applicant with a list of incomplete items and a description of how the application can be made complete in the written notice (Gov. Code, § 66317, subd. (a)(2)(B)). If a permit application is determined to be incomplete or is denied, the permitting agency must provide a process for an applicant to appeal the incompleteness determination or denial and the permitting agency must provide a final written determination no later than 60 business days after receipt of the written appeal (Gov. Code, § 66317, subd. (d)(1)).
- **Applications in the Coastal Zone.** Clarified application processing when in the coastal zone by requiring a local government or the Coastal Commission, as specified, to either approve or deny a coastal development permit application for an ADU within 60 days of receiving a completed application (Gov. Code, § 66329, subd. (a)).
- **Size Limitations.** Revised size limitations to be based on the square footage of interior living space of an ADU or JADU (Gov. Code, §§ 66321, subds. (b)(2) and (b)(3); 66313, subd. (d)).

- **Fees.** Specified that an ADU or JADU that contains less than 500 square feet of interior livable space does not increase assessable space. Revised the limitations on impact fees to prohibit impact fees on the development of an ADU that has 750 square feet of interior livable space or less or a JADU that has 500 square feet of interior livable space or less, and to require that any impact fee on an ADU that has more than 750 square feet of interior livable space be charged proportionately in relation to the square footage of the primary dwelling unit (Gov. Code, § 66311.5, subd. (c)).
- **Expanded HCD Authority.** Expanded HCD's authority over Chapter 13 of Division 1 of Title 7 of the Government Code, to review, adopt, amend, or repeal guidelines to additionally grant that authority with respect to terms, references, and standards for JADUs (Gov. Code, § 66313.5).
- **JADUs and Fire Sprinklers.** Clarifies that fire sprinklers are not required for a JADU if the primary residence does not have fire sprinklers and that the addition of a JADU cannot trigger the requirement for fire sprinklers (Gov. Code, § 66323, subd. (d)).
- **Unit Combinations.** Specifies the number of allowable ADUs described under Government Code section 66323 per lot (Gov. Code, § 66323, subd. (a)).
- **Certificate of Occupancy.** Requires a local agency to issue a certificate of occupancy for an ADU constructed in a county that is subject to a proclamation of a state of emergency made by the Governor on or after February 1, 2025, even if the primary dwelling has not yet been issued a certificate of occupancy, if certain requirements are met, including that the primary dwelling was substantially damaged or destroyed by an event referenced in the state of emergency proclamation (Gov. Code, § 66328).
- **Reasonable Restrictions.** Specifies that reasonable restrictions in covenants, restrictions, and conditions, as described in the Civil Code, shall not include any fees or other financial requirements (Civil Code, § 714.3, subd. (b)).
- **Objective Standards.** Removes Government Code section 66323, subdivision (g), which allowed the imposition of objective standards on ADUs in multifamily dwelling structures if the local agency had adopted an ADU ordinance by July 1, 2018.

For additional summaries of ADU legislation, please see the Resources section.

Frequently Asked Questions

66323 Units

What are “66323 Units”?

HCD uses the term “66323 Units” to refer to ADUs and JADUs that are created pursuant to Government Code section 66323. They have also been referred to as “State mandated” or “State exempt” ADUs. Government Code section 66323 creates four categories of ADUs (and JADUs) that must be approved ministerially and are only subject to standards set forth in Government Code section 66323. (Gov. Code, § 66323, subd. (b).) For example, 66323 Units do not have to comply with lot coverage, front setbacks, and design standards. However, these ADUs must comply with building code and health and safety requirements for dwellings. The four categories are:

1. Single-Family Converted ADUs and JADUs

One ADU per lot is permitted within the converted space of a proposed or existing single-family dwelling or accessory structure. This type of ADU must have exterior access and setbacks for fire and safety but is not subject to a four-foot side and rear yard setback. (Gov. Code, § 66323, subd. (a)(1).)

ADUs converted from accessory structures are eligible for a 150 square-foot expansion to accommodate ingress and egress. For example, if a second story from a single-family dwelling is converted into an ADU, a stairwell of not more than 150 square feet could be added, among other types of ingress and egress configurations that comply with the local building standards. (Gov. Code, § 66323, subd. (a)(1)(A).)

In addition, one JADU per lot is permitted within the proposed or existing space of a single-family dwelling or accessory structure and must have exterior access, side and rear setbacks for fire and safety. (Gov. Code, § 66323, subd. (a)(1).) JADUs must also comply with the provisions of JADU Law found in Government Code sections 66333-66339. For the purposes of constructing a JADU, attached garages are part of a single-family dwelling. (Gov. Code, § 66333, subd. (d).)

For more information, please see the Handbook section on JADUs.

2. Single-Family Detached ADUs

One detached new construction ADU that does not exceed four-foot side and rear yard setbacks is permitted on lots with an existing or proposed single-family dwelling (Gov. Code, § 66323, subd. (a)(2)). The maximum unit size is 800 square feet with a height limitation of 16, 18, or 20 feet depending on conditions specified in Government Code section 66321, subdivision (b)(4). (Gov. Code, § 66323, subd. (a)(2)(B).)

3. Multifamily Converted ADUs

ADUs may be created within the portions of existing multifamily structures that are not used as livable space (Gov. Code, § 66323, subd. (a)(3)(A)). Local agencies shall allow at least one ADU within an existing multifamily dwelling and up to 25 percent of the existing multifamily dwelling units (Gov. Code, § 66323, subd. (a)(3)(B)). Examples of structures that are not used as livable space include, but are not limited to: storage rooms, boiler rooms, passageways, attics, basements, or garages (Gov. Code, § 66323, subd. (a)(3)(A)).

4. Multifamily Detached ADUs

Up to two detached ADUs are allowed on a lot that has a proposed multifamily dwelling, or up to eight detached ADUs are allowed on a lot with an existing multifamily dwelling, not to exceed the number of existing units on the lot. These ADUs are subject to four-foot rear and side yard setbacks and height limits of 16, 18, or 20 feet depending on conditions specified in Government Code section 66321, subdivision (b)(4). (Gov. Code, § 66323, subd. (a)(4)(A).) A local agency may not require that a setback be modified for an existing multifamily dwelling with setbacks less than four feet as a condition of ADU application approval (Gov. Code, § 66323, subd. (a)(4)(B)).

The local agency must allow the four categories of ADUs listed above to be combined.. For example, pursuant to Government Code 66323, subdivision (a), local governments must allow units created pursuant to subparagraphs (1) and (2) together or (3) and (4) together. This means that on single-family lots, local agencies must allow at least one ADU constructed from existing space, one JADU, and one newly constructed detached ADU. For multifamily lots, local agencies must permit at least one ADU constructed from existing non-livable space (or up to 25 percent of the number of multifamily units), and two detached ADUs.

Allowable 66323 ADU Combinations All formats listed below may be combined as explained in the preceding section		
	Single-Family Primary Dwelling	Multifamily Primary Dwelling
Gov. Code, § 66323, subd. (a)(1) ADU constructed from proposed or existing space	- Sometimes referred to as “Conversions,” “Interior,” “Created within.” - May expand 150 square feet from the existing accessory structure for ingress and egress. - Must have exterior access.	Does not apply
Gov. Code, §§ 66323, subd. (a)(1); 66333-66339 JADUs	- Created within existing or proposed dwelling. 500 square-foot interior livable space maximum. - May be created from within attached garage.	Does not apply
Gov. Code, § 66323, subd. (a)(2) New construction detached	- May be in front setback. 800 square-foot interior livable space maximum.	Does not apply
Gov. Code, § 66323, subd. (a)(3)(A) Constructed in existing space not used as livable	Does not apply	- Existing non-livable space (e.g., gyms, enclosed parking, etc.) within the multifamily structure. - Allows at least one ADU or up to 25% of existing primary units.
Gov. Code, § 66323, subd. (a)(4) Detached from primary dwelling	Does not apply	- Up to two units detached from proposed primary dwelling, or - Up to eight units detached from existing primary dwelling, not to exceed the number of existing units on the lot. - Four-foot side and rear setbacks.

In addition to the units described in Government Code section 66323, a local agency must allow at least one unit described in Section 66314 and may impose objective development and design standards on such units.

What design, zoning, or other local standards can be imposed on 66323 Units?

A local agency may not impose development or design standards, including both local standards and standards found in State ADU Law, on 66323 Units that are not specifically listed in Government Code section 66323. (Gov. Code, § 66323, subds. (a), (b).) This includes, but is not limited to, parking, height, setbacks, or other zoning provisions (e.g., lot size, open space, floor area ratio, etc.).

Additionally, rentals of 66323 ADUs and JADUs must be for terms longer than 30 days. (Gov. Code, §§ 66323, subd. (e); 66333, subd. (g).) Fire sprinklers are not required for the ADU if not required for the primary residence, and the construction of an ADU or JADU may not trigger the requirement for fire sprinklers in an existing multifamily dwelling. (Gov. Code, § 66323, subd. (d).)

Can a 66323 ADU created by converting an existing accessory structure be expanded?

Yes. An ADU created within the existing space of an accessory structure can be expanded beyond the physical dimensions of the structure up to 150 square feet solely for the purpose of accommodating ingress and egress. (Gov. Code, § 66323, subd. (a)(1)(A).) An example is the construction of a staircase to reach a second story ADU. The ADUs shall conform to setbacks sufficient for fire and safety. (Gov. Code, § 66323, subd. (a)(1)(C).)

NOTE: A JADU may be created within the walls of a single-family residence and not within an accessory structure.

For more information regarding 66323 multifamily accessory units, please see Multifamily ADUs.

ADUs

What is an ADU?

An ADU is accessory to a primary residence and has complete independent living facilities for one or more persons. ADUs are either “detached from,” “attached to,” or located within the proposed or existing primary dwelling. This includes attached garages, storage areas or similar spaces, and accessory structures. The ADU can also be detached from the proposed or existing primary dwelling, including detached garages, provided it is located on the same lot. (Gov. Code, §§ 66313, subd. (a); 66314, subd. (d)(3).)²

Bedrooms

Can a limit on the number of bedrooms in an ADU be imposed?

A limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, and would be considered a constraint on the development of ADUs (Gov. Code, § 65008). Building standards for minimum bedroom size still apply.

² Note that certain federal financing programs mentioned in the section on “Funding,” below, may have different definitions of an ADU.

Can an ADU have no bedrooms?

A limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, (Gov. Code, § 65008) and could also unreasonably restrict the ability of homeowners to create ADUs (Gov. Code, § 66311). Additionally, efficiency units, which are an allowable type of ADU, are not required to have bedrooms. (Gov. Code, § 66313, subd. (a)(1).) Building standards for minimum bedroom size still apply.

Building Code Violations

Can an ADU application be denied due to building code violations?

An ADU application pursuant to Government Code section 66314 may be denied due to building code violations on the primary unit only if the violations present a threat to public health and safety and are affected by the construction of the ADU (Gov. Code, § 66322, subd. (b)). However, all ADUs must comply with building code and health and safety requirements for dwellings.

Certificate of Occupancy

Can a Certificate of Occupancy for an ADU be issued without a Certificate of Occupancy being issued for the primary dwelling first?

Only under specific circumstances. A local agency can issue a certificate of occupancy for an ADU constructed in a county that is subject to a proclamation of a state of emergency made by the Governor on or after February 1, 2025, even if the primary dwelling has not yet been issued a certificate of occupancy, if certain requirements are met, including that the primary dwelling was substantially damaged or destroyed by an event referenced in the state of emergency proclamation (Gov. Code, § 66328).

Coastal Commission

Do state ADU laws apply to jurisdictions located in the California Coastal Zone?

Yes. ADU laws apply to jurisdictions in the California Coastal Zone, but do not alter or lessen the effect or application of Coastal Act resource protection policies (Gov. Code, § 66329). Coastal localities should seek to harmonize the goals of protecting coastal resources and addressing housing needs of Californians. For example, localities should amend Local Coastal Programs for California Coastal Commission review to comply with the California Coastal Act and new State ADU Laws. For more information, see the California Coastal Commission 2022 Memo and reach out to the local Coastal Commission district office.

What is the application process in the California Coastal Zone?

When a certified local coastal program contains provisions regarding ADUs, a local agency shall either approve or deny a coastal development permit application for an ADU within 60 days of receiving a completed application, if there is an existing primary dwelling, and shall not be required to hold public hearings for coastal development permit applications for ADU. The process to approve or deny a coastal development permit application shall happen concurrently with the process to approve or deny an application for an ADU under Section 66317 (Gov. Code, § 66329, subd. (a)).

When a certified local coastal program does not contain provisions regarding ADUs, the California Coastal Commission's review process to approve or deny a coastal development permit application shall happen concurrently with the process to approve or deny an application for an ADU under Section 66317, provided that the California Coastal Commission has received a completed application for a coastal development permit pursuant to Section 65943 (Gov. Code, § 66329, subd. (b)(3)). If the California Coastal Commission has not approved or denied the completed coastal development permit application for the ADU within 60 days, and there is an existing primary dwelling, the application shall be deemed approved (Gov. Code, § 66329, subd. (b)(5)).

Can the California Coastal Commission delay a permit for an ADU?

Yes. If the coastal development permit application to create or serve an ADU is submitted with a coastal development permit application to create or serve a new single-family or multifamily dwelling on the lot, the California Coastal Commission may delay approving or denying the coastal development permit application for the ADU until the California Coastal Commission approves or denies the coastal development permit application to create or serve the new single-family or multifamily dwelling (Gov. Code, § 66329, subd. (b)(4)).

What if a local agency does not have a Local Coastal Program?

If the local agency does not have a certified local coastal plan or program, as defined in Public Resources Code section 31001, then the California Coastal Commission shall either approve or deny the coastal development permit application for an ADU within 60 days of receiving a completed application (Gov. Code, § 66329, subd. (b)(1)). A local agency that does not have a certified local coastal plan or program shall immediately notify the California Coastal Commission that a permit application for an ADU is complete pursuant to Section 66317 (Gov. Code, § 66329, subd. (b)(2)).

Deed Restrictions

Can an affordable housing deed restriction be imposed on an ADU?

No. A local agency cannot impose a deed restriction on an ADU. Government Code section 66315 states, "Section 66314 establishes the maximum standards that a local agency shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in Section 66314, shall be used or imposed, including an owner-occupant requirement, except that a local agency may require that the property may be used for rentals of terms 30 days or longer." Section 66314, subdivision (b)(1) allows for local objective standards, but the examples provided all relate to design and development standards (e.g., parking, height, setback, landscape, maximum size of a unit). A deed restriction is not such a standard and thus cannot be imposed.

Can a deed restriction be imposed on a JADU?

Yes. A local agency may adopt an ordinance for the creation of JADUs (Gov. Code, § 66333). That ordinance must "[r]equire the recordation of a deed restriction" that includes only a prohibition on the sale of the JADU separate from the sale of the single-family residence and a restriction on the size and attributes of the JADU that conforms with state law (Gov. Code, § 66333, subds. (c)(1), (c)(2)).

Fees

What types of fees are considered impact fees?

Impact fees charged for the construction of ADUs and JADUs must be determined in accordance with the Mitigation Fee Act and include any monetary exaction other than a tax or special assessment that is charged by a local agency in connection with the approval of an ADU or JADU for the purpose of defraying all or a portion of the cost of public facilities relating to the ADU or JADU. (Gov. Code, §§ 66311.5, subd. (c)(2); 66000.) A local agency, special district, or water corporation shall not consider ADUs or JADUs as a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer services unless the ADU or JADU is being constructed concurrently with a new single-family home. (Gov. Code, § 66311.5, subd. (d).)

Can impact fees be charged for an ADU less than 750 square feet or a JADU of less than 500 square feet?

No. An ADU is exempt from incurring impact fees from local agencies, special districts, and water corporations if it contains 750 square feet of interior livable space or less. If an ADU contains greater than 750 square feet of interior livable space, impact fees shall be charged proportionately in relation to the square footage of the ADU to the square footage of the primary dwelling unit. A JADU is exempt from incurring impact fees from local agencies, special districts, and water corporations if it contains 500 square feet of interior livable space or less. If a JADU contains greater than 500 square feet of interior livable space, impact fees shall be charged proportionately in relation to the square footage of the JADU to the square footage of the primary dwelling unit. (Gov. Code, § 66311.5 subd. (1).) In this specific instance, impact fees also include Quimby fees specified in Government Code section 66477 (Gov. Code, § 66311.5 subd. (c)(2)).

What is “Proportionality”?

“Proportionality” is some amount in relation to a total amount, in this case, an impact fee for a single-family dwelling. For example, a 2,000 square-foot primary dwelling with a proposed 1,000 square-foot ADU could result in 50 percent of the impact fee that would be charged for a new primary dwelling on the same site. (Gov. Code, § 66311.5, subd. (c)(1).)

Can school districts charge impact fees?

Yes. School districts are authorized to, but do not have to, levy impact fees for ADUs larger than 500 square feet of interior livable space pursuant to Section 17620 of the Education Code and the Mitigation Fee Act (Gov. Code, § 66000). ADUs and JADUs that are less than 500 square feet of interior livable space are not subject to school impact fees. Local agencies are encouraged to coordinate with school districts to carefully weigh the importance of promoting ADUs and JADUs, and to ensure appropriate nexus studies are conducted on fees to facilitate construction or reconstruction of adequate school facilities, as required by the Mitigation Fee Act. ADUs or JADUs that contain less than 500 square feet of interior livable space shall be considered other residential construction that does not increase assessable space by 500 square feet (Gov. Code, § 66311.5, subd. (c)(3)).

Can I still be charged water and sewer connection fees?

ADUs constructed from existing space and JADUs shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless constructed concurrently with a new single-family dwelling (Gov. Code, § 66311.5, subd. (b)). The connection fee or capacity charge shall be proportionate to the burden of the proposed ADU, based on its square footage or drainage fixture unit as compared to the primary dwelling (Gov. Code, § 66311.5, subd. (e)).

Fire Protection and Fire Sprinkler Requirements

Can fire sprinklers be required for ADUs and JADUs?

Only when sprinklers are required for the existing primary residence. Installation of fire sprinklers shall not be required in ADUs or JADUs if sprinklers are not required by building standards for the existing primary residence. For example, a detached single-family home designed and constructed decades ago would not have been required to have fire sprinklers installed under the applicable building code at the time. However, if the same primary dwelling recently underwent significant alteration and is now required to have fire sprinklers, any ADU or JADU created after that alteration must be provided with fire sprinklers. Additionally, the construction of any ADUs or JADUs shall not trigger a requirement for fire sprinklers for the primary residence. (Gov. Code, §§ 66314, subd. (d)(12); 66323, subd. (d).)

Funding

Is there financial assistance or funding available for ADUs?

Possibly. While at the time of this writing the funds have been exhausted, the California Housing Finance Agency's (CalHFA) ADU Grant Program provided up to \$40,000 in assistance to reimburse qualifying homeowners for predevelopment costs necessary to build an ADU or JADU on a lot with an owner-occupied single-family dwelling unit. The ADU Grant Program was intended to create more housing units in California by providing a grant to reimburse qualifying homeowners for predevelopment costs. Predevelopment costs include, but are not limited to, architectural designs, permits, soil tests, impact fees, property surveys, and energy reports.

Some local agencies are creating funding opportunities for ADU/JADU predevelopment and construction costs, or they are waiving fees.

For local agencies wanting to apply for funding for ADUs and JADUs, some of HCD's funding programs, such as the CalHome Program, the Permanent Local Housing Allocation program, the Prohousing Incentive Program, and the Local Housing Trust Fund Program, do include funding for these housing types as eligible activities.

For more information on local and state funding opportunities for ADU/JADU predevelopment or construction, or funding options for local agencies, please see the Grants and Funding section of our ADU webpage: <https://www.hcd.ca.gov/building-standards/adu>.

The Federal Housing Administration (FHA), Freddie Mac, and Fannie Mae also provide loans to support ADUs. The links below include information on these finance programs, including relevant definitions and criteria.

FHA

The FHA recently expanded access to mortgage financing for homes that have or will include ADUs. Specifically, the updated loan policies allow for the inclusion of rental income from the ADU in the borrower's qualifying income and would allow more borrowers to qualify for FHA financing for properties with ADUs. This includes the 203(k) Rehabilitation loan. Note that the 203(k) Rehabilitation loan may only be used to construct an attached ADU.

For more information on the updated policies, please reference the FHA Single Family Housing Policy Handbook at <https://www.hud.gov/sites/dfiles/OCHCO/documents/40001-hsgh-update15-052024.pdf>, or the 2023 Mortgagee Letter that includes specific ADU finance changes in the handbook <https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-17hsgml.pdf>. Interested parties should look to HUD's website for any updates.

Freddie Mac

Freddie Mac now offers several options for adding an ADU to an existing home and financing a purchase with the intention to rent or build an ADU. This includes allowing rental income from ADUs to be included in qualified income for a loan.

For more information, please visit <https://sf.freddiemac.com/docs/pdf/fact-sheet/adu-fact-sheet.pdf>.

Fannie Mae

Fannie Mae now offers financing options for adding an ADU to an existing property, building a home with an ADU using Construction-to-Permanent Financing, and buying a home with an existing ADU.

For more information, please visit <https://singlefamily.fanniemae.com/originating-underwriting/mortgage-products/accessory-dwelling-units>.

Height Requirements**Is there a limit on the height of an ADU?**

There is no height limit contained in State ADU Law, but local agencies may impose height limits pursuant to Government Code section 66321, subdivision (b)(4). A local agency may impose a height limit by adopting a compliant ADU ordinance.

A local agency may not impose a height limit that is less than the following:

Detached ADUs

16 feet on a lot with a proposed or existing single-family or multifamily dwelling unit (Gov. Code, § 66321, subd. (b)(4)(A)).

18 feet on a lot with an existing or proposed single-family or multifamily dwelling, including an additional 2 feet to accommodate roof pitch that aligns with the primary dwelling, when the lot is a half-mile from a major transit stop or high-quality transit corridor (Gov. Code, § 66321, subd. (b)(4)(B)). Please see the ADU Glossary for definitions of these terms.

18 feet height on a lot with an existing or proposed multifamily, multistory dwelling (Gov. Code, § 66321, subd. (b)(4)(C)).

If a detached two-story ADU can be built according to the height allowances required under State ADU Law while remaining compliant with the building code, a local agency cannot deny an ADU application to create a two-story ADU, irrespective of the underlying zoning that might restrict a primary dwelling to one story. (Gov. Code, §§ 66321, subd. (b)(4)(D); 66314, subd. (d)(8).)

Attached ADUs

25 feet or the height limitation that applies to the primary dwelling in the local zoning ordinance, whichever is lower (Gov. Code, § 66321, subd. (b)(4)(D)).

Is there a limit on the number of stories of an ADU?

There is no limit on the number of stories contained in State ADU Law. A local agency must allow at least two stories, if this can be accommodated under the applicable height limit while complying with all applicable building standards, and an attached ADU may be built to the height of the zoning for the primary dwelling or up to 25 feet, whichever is lower. (Gov. Code, § 66321, subd. (b)(4)(D).)

Are there tools available to determine if a project qualifies for 18 feet in height?

The California State Geoportal features an interactive map and searchable database to assess whether any California address is within a High-Quality Transit Corridor (HQTC) (as described in Public Resources Code sections 21155, 21064.3, and 21060.2). This can assist with determining if your projects are eligible for an extra two feet in height. However, the State ADU Law does not designate a definitive resource for making HQTC proximity determinations. Applicants should go to their Metropolitan Planning Organizations first to find out if they are in a HQTC. If there is not one in their area, then they should go to their local agency.

Homeowners Associations (HOAs)

Can CC&Rs prohibit the construction or use of an ADU or JADU?

No. Sections 714.3 and 4751 of the Civil Code nullify covenants, conditions, and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on lots zoned to permit single-family residential uses. Such CC&Rs, including operating rules, are void and unenforceable. Applicants who encounter prohibitions of ADUs and JADUs within CC&Rs, whether implicit or explicit, are encouraged to reach out to their local agency.

What restrictions can be placed on an ADU or JADU?

HOAs may impose some limited objective standards on an ADU or JADU, such as requiring, within reason, specific materials, architectural styles, or other design and aesthetic restrictions. However, these standards may not be more stringent than State ADU Law and thereby unreasonably increase the cost to construct or effectively prohibit or extinguish the ability to create or serve an ADU or JADU. Reasonable restrictions in covenants, restrictions, and conditions, as described in the Civil Code, shall not include any fees or other financial requirements (Civ. Code, § 714.3, subd. (b)).

Examples of effective prohibitions, unreasonable costs, and extinguishments of the ability to construct an ADU or JADU may include, but would not be limited to:

- Any delay in reviewing an ADU or JADU for compliance with reasonable restrictions beyond the timeframes required of local agencies (60 days) or that significantly delay the construction or use of an ADU or JADU.
- Requiring alteration to an ADU or JADU application that would cause the property owner to incur substantial costs or forgo the development.
- Imposing a condition that would necessitate re-applying or amending a building permit application that substantially complies with State ADU and JADU Laws.
- Mandating neighboring property owners' approval or agreement for an ADU or JADU application or considering any disapproval or disagreement to the construction or use of an ADU or JADU by the neighbors as part of the local agency's ministerial process to approve or deny the application.
- Restricting the placement or location of an ADU or JADU such that it would be rendered infeasible or unusable by the property owner.
- Requiring major structural elements or design changes beyond the requirements set forth in State ADU and JADU Law that would extinguish the ability to construct or use the ADU or JADU.
- Imposing restrictions that are not objective or not knowable or available to the property owners in advance of submitting the application.

Property owners whose construction or use of an ADU or JADU is impeded by an HOA (or their representatives or agents) are encouraged to reach out to their local agency and to seek legal counsel.

Can an HOA review or influence a local agency's ministerial approval to create or serve an ADU or JADU?

No. An HOA may not influence a local agency's ministerial approval of an ADU or JADU. Local agencies must provide an approval process that only includes ministerial provisions for the approval of ADU permit applications. This approval process shall not include discretionary processes, provisions, or requirements except as provided in Government Code section 66315. Thus, third party reviews by an HOA or their representatives or agents would violate State ADU Law. (Gov. Code, § 66315.) No other local ordinances, policies, or regulations may be applied in the approval or denial of an ADU or JADU permit application (Gov. Code, § 66317, subd. (c)). If a local agency allows an HOA to be involved in any part of an ADU or JADU application process, the local agency is in violation of State ADU Law.

Housing Elements and Prohousing Designation

Do ADUs and JADUs count toward a local agency's RHNA?

Yes. Pursuant to Government Code sections 66330, and 65583.1, ADUs and JADUs may be utilized towards the RHNA and the Housing Element Annual Progress Report (APR) required by Government Code section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the U.S. Census definition of a housing unit. Generally, an ADU, and a JADU with shared sanitation facilities, and any other unit that meets the U.S. Census definition and is reported to DOF as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level.

The housing element or APR must include a reasonable methodology to demonstrate the level of affordability. Local governments can track actual or anticipated affordability to assure ADUs and JADUs are counted towards the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit or other local applications.

For more information, please refer to the Housing Element Building Blocks or contact HousingElements@hcd.ca.gov.

What analysis is required to count ADUs toward the RHNA in the housing element?

To count ADUs towards the RHNA in the housing element, local agencies must generally use a three-part approach: (1) development trends, (2) anticipated affordability, and (3) resources and incentives. Development trends must consider ADUs permitted in the prior planning period and may also consider more recent trends. Anticipated affordability can use a variety of methods to estimate the affordability by income group. Common approaches include rent surveys of ADUs, using rent surveys and square footage assumptions and data available through the APR required by Government Code section 65400. Resources and incentives include policies and programs to encourage ADUs, such as prototype plans, fee waivers, expedited procedures, and affordability monitoring programs.

Are ADUs required to be addressed in the housing element?

Yes. The housing element must include a description of zoning available to permit ADUs, including development standards and analysis of potential constraints on the development of ADUs. The element must include programs to address identified constraints. In addition, housing elements must include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low-, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction, and operation of affordable ADUs. (Gov. Code, § 65583; HSC, § 50504.5.) Please note, if a local jurisdiction has an ADU program as part of a housing element, even once the housing element is approved, the ADU ordinance needs to be updated regularly to ensure compliance with new state laws.

Can ADUs and JADUs impact a local agency's Prohousing Designation status?

Yes. To qualify for a Prohousing Designation, a local agency must be in compliance with all applicable state housing laws, such as those mentioned in Government Codes section 65585, subdivision (j), which includes State ADU Law. An approved housing element and any associated programs which promote ADU development will also need to be enacted and in compliance to meet the minimum threshold requirements for a Prohousing Designation. Additionally, ADUs and JADUs are specifically identified within the Prohousing Designation Program as designation criteria under California Code of Regulations, Title 25, section 6606, meaning that an ADU ordinance or program which promotes ADU development beyond the minimum requirements of State ADU Law may score additional points towards their Prohousing Designation. In other words, local agencies that are in violation of State ADU Law will be ineligible for a Prohousing Designation, while local agencies that promote additional ADU development can score additional points towards their Prohousing Designation, and all the benefits that designation provides. (CCR Title 25, §§ 6600-6608).

JADUs

What is a JADU?

A “junior accessory dwelling unit” or JADU is a unit that is no more than 500 square feet of interior livable space in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure. (Gov. Code, § 66333.)

Are two JADUs allowed on a lot?

No. Only one JADU may be created per lot zoned for single-family residences with an existing or proposed single-family residence (Gov. Code, § 66333, subd. (a)). The JADU may be created within the walls of the proposed or existing single-family residence, including attached garages (Gov. Code, § 66333, subd. (d)). If there are multiple detached single-family residential units on one lot, there can only be one JADU.

Can a JADU be created within a “half-plex”?

Yes, a JADU is permitted in a half-plex. A half-plex consists of two primary dwelling units on separate lots that share a dividing wall. One JADU is permitted in each half-plex in areas zoned for single-family use. (Gov. Code, § 66333, subd. (a).) If two units are attached on a single lot (i.e., a duplex), the primary dwelling is considered multifamily and would not qualify for a JADU.

Are JADUs required to have an interior connection to the primary dwelling?

JADUs are required to be within the walls of the primary dwelling but are not required to have an interior connection to the primary dwelling. However, if the JADU does not include a separate bathroom, the JADU must include an interior entrance to the main living area. (Gov. Code, § 66333, subd. (e)(2).)

Are JADUs allowed in detached accessory structures?

No, JADUs are not allowed in accessory structures. The creation of a JADU must be within the single-family residence. As noted above, “enclosed uses” within the residence, such as attached garages, are eligible for JADU creation. (Gov. Code, § 66333, subd. (d).)

Are JADUs allowed to be increased by up to 150 square feet when created within an existing structure?

No. Only ADUs that are created from existing accessory structures are allowed to add up to 150 square feet “beyond the physical dimensions of the existing accessory structure” to provide for ingress or egress (Gov. Code, § 66323, subd. (a)(1)(A)).

What can local agencies require as part of an “efficiency kitchen”?

An efficiency kitchen is a cooking facility with appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the JADU (Gov. Code, § 66333, subds. (f)(1), (f)(2)). A local agency cannot be more restrictive than this definition. Thus, requirements such as counter or cabinet sizes, specified electrical or gas connections, or appliance types are not authorized by State JADU Law. Please note: 220V circuits are not required for an efficiency kitchen.

Are JADUs required to provide parking?

No. Local agencies may not require parking as a condition to permitting a JADU, even when the JADU is converted from an attached garage (Gov. Code, § 66334, subd. (a)).

Local ADU Ordinances and Local Agencies

Should a local ordinance encourage the development of ADUs?

Yes. Pursuant to Government Code section 66310, the California Legislature found and declared that, among other things, California is facing a severe housing crisis and ADUs are a valuable form of housing that meets the needs of family members, students, the elderly, in-home health care providers, people with disabilities, and others. Therefore, ADUs are an essential component of California's housing supply.

Recent changes to State ADU Law intend to address barriers, streamline approval, and expand potential capacity for ADUs, recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment, and implementation of local ADU ordinances must be carried out consistently with Government Code section 66310 and must not unduly restrict the creation of ADUs. Local governments adopting ADU ordinances should carefully weigh the adoption of zoning, development standards, and other provisions for impacts on the development of ADUs.

State ADU Law provides the statutory minimum requirements for ADUs and JADUs. Local governments may elect to be less restrictive than the statutory minimum to further the creation of ADUs and JADUs. (Gov. Code, § 66325, subd. (b).) Many local governments have embraced the importance of ADUs as an important part of their overall housing policies and have pursued innovative strategies.

Can a local agency adopt an ADU “bonus program?”

Yes. One common strategy used by local agencies to promote ADU development is to adopt ADU bonus programs. HCD supports this approach to go above and beyond State ADU Law's requirements to address California's ongoing housing crisis. A successful ADU bonus program should meet the following criteria:

1. The ADU bonus program is completely optional – There is no requirement, and no consequence for not taking part in a local bonus program.
2. The ADU bonus program only offers benefits in addition to the provisions of State ADU Law, not in lieu of them – All state-mandated requirements are granted unconditionally.
3. The ADU bonus program removes one or more physical constraints, such as a limitation on the number of allowable units on a lot, ADU size, height, setback requirements, or a waiver of design and development criteria.

Does HCD have enforcement authority over ADU and JADU ordinances?

Yes. Pursuant to Government Code sections 66326, subdivision (a), and 66333.5, subdivision (a), local agencies are required to submit a copy of newly adopted ADU and JADU ordinances to HCD within 60 days of adoption. HCD may thereafter provide written findings to the local agency as to whether the ordinance complies with State ADU Law. If HCD finds that the ADU or JADU ordinance does not comply with State ADU Law, the local agency must respond to HCD's written findings within 30 days. The local agency shall either amend its ordinance in accordance with HCD's findings, or adopt the ordinance without changes, but include findings in its resolution explaining why the ordinance complies with State ADU Law despite HCD's findings. (Gov. Code, §§ 66326, subd. (b); 66333.5, subd. (b)(2).) If the local agency fails to respond to HCD's findings regarding its ordinance within the 30-day timeline, that ordinance is null and void and the local agency must only apply State ADU Law when permitting ADUs and

JADUs (Gov. Code, §§ 66326, subd. (d); 66333.5, subd. (d)). Although not required by State ADU Law, HCD may continue to offer further technical assistance to the local agency. However, if the local agency does not amend its ordinance in accordance with HCD's findings or adopt a resolution explaining why the ordinance is compliant, HCD shall notify the local agency and may notify the Attorney General that the local agency is in violation of State ADU Law. (Gov. Code, §§ 66326, subd. (c)(1); 66333.5, subd. (c)(1).) While an ordinance is non-compliant, the local agency shall apply state standards for the approval of ADUs, until the local agency adopts a compliant ordinance. (Gov. Code, § 66316.)

In addition, HCD may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria for ADUs and JADUs that supplement or clarify State ADU Law (Gov. Code, §66313.5).

Do local agencies have to adopt an ADU ordinance?

No. Local agencies may choose not to adopt an ADU or JADU ordinance. Should a local agency choose not to adopt an ADU or JADU ordinance, any proposed ADU or JADU development would be subject only to the standards set forth in State ADU Law. (Gov. Code, §§ 66315, 66316; 66333.5, subd.(d).) A local agency that adopts an ADU ordinance may impose objective development and design standards in compliance with Government Code section 66314.

Is a local agency required to send an ADU ordinance to HCD?

Yes. A local agency, upon adoption of an ADU or JADU ordinance, must submit a copy of the adopted ordinance to HCD within 60 days after adoption. If a local agency fails to submit an adopted ADU ordinance to HCD within the 60-day timeline or fails to respond to HCD's findings regarding its ordinance within the 30-day timeline, that ordinance is null and void and the local agency must only apply State ADU Law when permitting ADUs (Gov. Code, §§ 66326, subd. (d); 66333.5, subd. (d)). After the adoption of an ordinance, HCD may review and submit written findings to the local agency as to whether the ordinance complies with the State ADU Law. (Gov. Code, §§ 66326, subd. (a); 66333.5, subd. (a).)

Are charter cities and counties subject to the new ADU laws?

Yes. State ADU Law applies to a local agency, which is defined as a city, county, or city and county, whether general law or chartered (Gov. Code, §§ 66312; 66313, subd. (g)).

Do ADU laws apply to areas governed by the Tahoe Regional Planning Agency (TRPA)?

Possibly. The TRPA was formed through a bistate compact between California and Nevada, which elevates its authority above state laws. Under this authority, TRPA has adopted certain restrictions that effectively limit lot coverage on developed land. State ADU Law may conflict to a degree with the TRPA standards, and to the extent that it does, the TRPA law preempts or overrides State ADU Law. For more information, please see: <https://www.trpa.gov/adus/>.

Manufactured Homes

Can a manufactured home be used as an ADU?

Yes. By definition, an ADU includes manufactured homes (Gov. Code, § 66313, subd. (a)(2); HSC, § 18007).

Health and Safety Code section 18007, subdivision (a): “Manufactured home,” for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

For more information on Manufactured Homes please contact the Division of Codes and Standards at ContactMH-FBH@hcd.ca.gov.

Mobilehome Parks

Are ADUs permitted on lots within mobilehome parks or special occupancy parks?

No. A lot, as defined in Health and Safety Code sections 18210 and 18862.23, allows for only one manufactured home, mobilehome, or recreational vehicle. Health and Safety Code section 18862.23 also allows one tent, camp car, camping cabin, or camping party on a lot within a special occupancy park.

For more information, please contact the Division of Codes and Standards at: NAOStaff@hcd.ca.gov for Northern CA or SAOStaff@hcd.ca.gov for Southern CA.

Multifamily ADUs

What is considered a multifamily dwelling under State ADU Law?

For the purposes of creating an ADU, a structure with two or more *attached* dwellings on a single lot is considered a multifamily dwelling structure. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings for the purposes of State ADU Law.

Does a local agency have to permit ADUs on lots zoned for multifamily use?

Yes. A local agency must permit an attached, detached, or converted ADU on a lot that is zoned to allow single-family or multifamily residential use and includes an existing or proposed dwelling (Gov. Code, § 66314, subds. (d)(2), (d)(3)). An applicant may build a detached or a converted ADU on a site in a residential or mixed-use zone with a proposed or existing multifamily dwelling. (Gov. Code, § 66323, subds. (a)(3), (a)(4).) (See next question for more information.)

How many ADUs are allowed on a multifamily site under Government Code section 66323?

Under Government Code section 66323, an applicant may apply to build up to eight detached ADUs (Gov. Code, § 66323, subd. (a)(4)(A)) and at least one conversion ADU within an existing multifamily dwelling and up to 25 percent of the number of units in the existing multifamily dwelling (Gov. Code, § 66323, subd. (a)(3)(B)).

Can JADUs be created in multifamily dwelling structures?

No. JADUs may only be constructed on a site with a proposed or existing single-family dwelling in an area zoned for single-family residences; a JADU cannot be constructed on a multifamily site (Gov. Code, § 66333, subd. (a)).

Can a permitting agency impose accessibility standards on ADUs converted from existing space?

Maybe. For more information on ADA standards as they apply to your specific dwelling, please contact the Division of Codes and Standards at HCDBuildingStandards@hcd.ca.gov.

Can a leasing office be converted into an ADU?

Yes. A leasing office within an existing multifamily dwelling structure can be converted to at least one ADU – and up to 25 percent of the existing multifamily dwelling units – provided the ADUs comply with state building standards for dwellings. (Gov. Code, § 66323, subd. (a)(3)(A).)

In addition, a leasing office on a lot with an existing multifamily dwelling may be converted into up to eight detached ADUs, not to exceed the number of existing units on the lot and subject to height limitations in section 66321, subdivision (b), and to rear yard and side setbacks of no more than four feet. (Gov. Code, § 66323, subd. (a)(4)(A).)

Finally, an ADU can be created from an accessory space, including a leasing office, that is either attached to or located within the multifamily structure or an accessory structure, or is detached from the primary dwelling and located on the same lot as the primary dwelling, and complies with other applicable standards. (Gov. Code, § 66314, subd. (d)(3).)

Nonconforming Zoning

Can a local agency refuse to permit an ADU or JADU because of nonconforming zoning conditions?

State ADU Law limits a local agency's ability to deny a permit application due to the correction of existing, nonconforming zoning conditions. Nonconforming zoning conditions are physical improvements on a property that do not conform to current zoning standards. (Gov. Code, § 66313, subd. (h)). For 66323 Units, a local agency cannot condition approval on the correction of nonconforming zoning conditions (Gov. Code, § 66323, subd. (c)). For all other ADUs, a local agency may only deny a permit to create an ADU due to zoning non-conformance when the non-conformance creates a threat to public health and safety and is affected by the construction of the ADU (Gov. Code, §§ 66322, subd. (b)).

Owner-Occupancy

Can local agencies require owner-occupancy for an ADU?

Only ADUs which are sold separately to a qualified buyer under Government Code section 66341, subdivision (c)(3), can require owner-occupancy. Otherwise, a local agency cannot impose an owner-occupancy requirement on any other ADU (Gov. Code, § 66315).

Are there any owner-occupancy requirements for JADUs?

Yes, under certain circumstances. If a JADU has shared sanitation facilities with the primary structure, owner-occupancy will be required. If the JADU does *not* have shared sanitation

facilities, or the owner is another governmental agency, land trust, or housing organization, owner-occupancy will *not* be required. The owner must reside in either the remaining portion of the primary residence or in the newly created JADU. (Gov. Code, § 66333, subd. (b).) Additionally, JADUs cannot be used as short-term rentals and, if rented, must be rented for longer than 30 days (Gov. Code, § 66333, subd. (g).)

Parking Requirements

Can ADU parking requirements exceed one space per unit or bedroom?

No. Parking requirements for ADUs shall not exceed one parking space per unit or bedroom, whichever is less (Gov. Code, § 66314, subd. (d)(10)(A)). These spaces may be provided as tandem parking on a driveway (Gov. Code, § 66314, subd. (d)(10)(B)). Guest parking spaces shall not be required for ADUs under any circumstances. In addition, a local agency may not require off-street parking spaces to be replaced when a garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an ADU or converted to an ADU (Gov. Code, § 66314, subd. (d)(11)).

Local agencies may choose to eliminate or reduce parking requirements for ADUs, such as requiring zero or a fraction of a parking space per each ADU (such as a ½ space per unit), to further reduce barriers to ADU construction and to facilitate more development of mixed-modal transportation such as walking and public transit.

Are certain ADUs exempt from parking requirements?

Yes. A local agency shall not impose parking standards on any of the following ADUs, pursuant to Government Code section 66322, subdivision (a):

- 1) ADUs located within one-half mile walking distance of public transit.
- 2) ADUs located within an architecturally and historically significant historic district.
- 3) ADUs that are part of the proposed or existing primary residence or an accessory structure.
- 4) When on-street parking permits are required but not offered to the occupant of the ADU.
- 5) When there is a car share vehicle located within one block of the ADU.
- 6) When a permit application for an ADU is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the ADU or the parcel satisfies any other criteria listed in Government Code section 66322, subdivision (a)(1)-(5).

Parking requirements for ADUs may not exceed one parking space per ADU or per bedroom, whichever is less (Gov. Code, § 66314, subd. (d)(10)). ADUs which have no bedrooms because they are an “efficiency unit” or studio do not increase the bedroom count.

In addition, local agencies may not impose parking requirements on 66323 Units.

Is flexibility for siting ADU parking recommended?

Yes. Local agencies should be flexible when siting parking for ADUs. Off-street parking spaces for the ADU shall be permitted in setback areas in locations determined by the local agency or through tandem parking unless specific findings are made otherwise based on specific site or regional topographical or fire and life safety conditions. (Gov. Code, § 66314, subd. (d)(10)(B).)

When a garage, carport, uncovered parking space, or covered parking structure is demolished in conjunction with the construction of an ADU, or converted to an ADU, the local agency shall not require that those off-street parking spaces for the primary unit be replaced (Gov. Code, § 66314, subd. (d)(11)).

Permit Applications and Permitting Agencies

What is an ADU permitting agency?

A permitting agency is “any entity that is involved in the review of a permit for an accessory dwelling unit or JADU and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.” (Gov. Code, § 66313, subd. (k).) See also the Glossary section of this Handbook for this definition.

Are ADUs and JADUs permitted ministerially?

Yes. ADUs and JADUs subject to State ADU Law must be considered, approved or denied, and permitted ministerially, without discretionary review or a hearing (Gov. Code, §§ 66317, subd. (a); 66335, subd. (a); 66335.5). Development standards must be objective to allow for ministerial review (Gov. Code, § 66314, subd. (b)(1)). Objective standards require a uniform benchmark or reference that is knowable by both the permit applicant and the permitting agency prior to the submission of an application to create or serve an ADU (Gov. Code, § 66313, subd. (i)).

What are considered objective standards for ministerial approval?

Examples include numeric and fixed standards such as heights or setbacks, or design standards such as specified colors or materials. See also the Glossary section of this Handbook for the definition of objective standards.

What would be considered subjective standards?

Subjective standards require independent judgement and are open to multiple interpretations. Language such as “privacy,” “compatibility with neighboring properties,” “promoting design harmony and balance,” “must maintain similar architecture style,” or requiring “high quality materials” are subjective and may not be imposed on ADU development (Gov. Code, § 66313, subd. (i)).

What is the process and timeline for reviewing and approving ADU and JADU applications?

A permitting agency must determine whether an application for an ADU or JADU is complete and provide written notice of the determination not later than 15 business days after the permitting agency received the application (Gov. Code, §§ 66317, subd. (a)(2)(A); 66335, subd. (a)(2)(A)).

If it is determined that an application is incomplete, the permitting agency is required to provide the applicant with a list of incomplete items and a description of how the application can be made complete in the written notice (Gov. Code, §§ 66317, subd. (a)(2)(B); 66335, subd. (a)(2)(B)). If a permit application is determined to be incomplete or is denied, the permitting agency must provide a process for an applicant to appeal the decision (Gov. Code, §§ 66317, subd. (d)(1); 66335, subd. (e)(1)). The permitting agency must provide a final written

determination by not later than 60 business days after receipt of the written appeal (Gov. Code, §§ 66317, subd. (d)(2); 66335, subd. (e)(2)).

What kind of environmental review is required for ADUs and JADUs?

ADUs and JADUs approved ministerially are statutorily exempt from CEQA pursuant to Section 15268 (Ministerial Projects) of the CEQA guidelines and Section 21080, subdivision (b)(1) of the Public Resources Code. In addition, ADUs can be categorically exempt from CEQA pursuant to Sections 15301 and 15303 of the CEQA guidelines. ADU and JADU ordinances are statutorily exempt from CEQA pursuant to Section 21080.17. However, if an ADU application requires a discretionary coastal development permit, that discretionary permit may be subject to CEQA.

What does ministerial review of a permit application involve?

A ministerial review ensures that the permit application meets all the applicable objective standards effective at the time of the review and uses no discretionary judgment, opinion, or subjective standards. Agency staff inspect the submitted application, site plan, and building plans for compliance with applicable standards. This often means that the permitting agency (i.e., planning, building, fire departments and utilities) reviews the application using only checklists. (Gov. Code, §§ 66316, 66317, 66320.)

Can an applicant delay the 60-day timeline?

Yes. If an applicant would like to request a delay on their application for any reason, they may do so. The 60-day period to approve or deny the permit shall be tolled for the period of the delay. (Gov. Code, §§ 66317, subd. (a)(3); 66335, subd. (a)(5).)

When is an ADU permit application “deemed complete” without formal review?

An ADU permit application is “deemed complete” when the permitting agency fails to make a timely written completeness determination within 15 business days (Gov. Code, §§ 66317, subd. (a)(2)(F)).

Do ADUs need a Certificate of Occupancy?

Yes, property owners must obtain a Certificate of Occupancy from the local agency prior to any residential occupancy of an ADU or JADU (Gov. Code, § 66328; 2022 CBC, § 111).

Can the local agency deny a permit application for an unpermitted ADU that was built before 2020?

Yes, but only with specific findings. A local agency shall not deny a permit for an unpermitted ADU that was constructed before January 1, 2020, due to the ADU being in violation of building standards, non-compliance with State ADU Law, or any local ordinance regulating ADUs (Gov. Code, § 66311.7, subd. (a)). However, the local agency may deny the permit if the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure, or if the building is deemed substandard pursuant to section 17920.3 of the Health and Safety Code (Gov. Code, § 66311.7, subds. (b), (c)). Please note, corrections, requirements, or issues relating to the building code or health and safety are under the local agency’s discretion and purview. Applicants applying for a permit for a previously unpermitted dwelling should follow the local agency’s appeals process if they feel there is a discrepancy with corrections or denials issued by the local agency.

What happens when an application for an ADU is denied?

The permitting agency denying the application must provide the applicant a full set of comments listing items that are defective or deficient and include a description of how the application may be remedied. A full set of comments includes all comments from all reviewers, from every permitting agency. The 60-day countdown continues until the complete list is provided. (Gov. Code, §§ 66317, subd. (b); 66335, subd. (b).) A local agency which has provided a complete set of correction comments has fulfilled this requirement. Following a denial, a subsequent application resets the 60-day period.

The applicant may address the proposed remedy and resubmit the application to the permitting agency. A local agency may charge a fee to process a resubmitted application. (Gov. Code, § 66335 subd. (c).)

How can I request technical assistance from HCD about the denial of my ADU application?

Questions and requests for technical assistance should be submitted through HCD's [ADU Portal](https://www.hcd.ca.gov/building-standards/adu), which is available on HCD's ADU webpage: <https://www.hcd.ca.gov/building-standards/adu>. To reach the portal, navigate to "Contact the ADU Team." Applicants should first work to address the denial with the permitting agency via the agency's process. HCD may provide technical assistance after an application has been submitted. However, HCD may not respond or follow up with a permitting agency if there is no pending application.

Rental Terms

Are rental terms allowed?

Yes. Local agencies may require that ADUs and JADUs be rented for terms longer than 30 days (Gov. Code, § 66315; 66323, subd. (e); 66333, subd. (g)).

Sales and Separate Conveyance

Can ADUs be sold or separately conveyed?

A local agency may adopt a local ordinance to allow separate conveyance of the primary unit and the ADU as condominiums if the ordinance meets specific requirements laid out in Government Code section 66342. In addition, Government Code section 66341 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 and meets other requirements specified in section 66341.

Senate Bill 9 (SB 9) (Chapter 162, Statutes of 2021)

How does SB 9 work with ADUs?

SB 9 (Gov. Code, §§ 65852.21 and 66411.7) and ADU Law are complementary. Both laws can be used together to create varying combinations of "SB 9 units" and ADUs. SB 9 allows for a lot to be split, with each of the two resulting lots eligible for up to two primary units. These primary units are distinct from ADUs and JADUs created under ADU Law and must be approved ministerially.

When a lot split occurs, SB 9 requires the local agency to approve up to two units on each parcel but specifically states that only two units are allowed per parcel, despite what ADU Law would otherwise allow. Those two units could be two primary “SB 9 units,” or one primary unit and one ADU, or one primary unit and one JADU. But in no case is a local agency required to permit more than two units on either of the two parcels resulting from an SB 9 lot split.

When an SB 9 lot split has not occurred, the lot is eligible to receive up to two primary units under SB 9, as well as whatever combination of ADUs and JADUs it would otherwise be entitled to under ADU Law if SB 9 was not being used. In some instances, this may result in a total number of units on the parcel that is greater than what either SB 9 or ADU Law would allow on its own. However, if ADU Law is used on its own or in combination with SB 9 to create more than four total units on the lot, a local agency is not required to approve a lot split under SB 9.

See HCD’s SB 9 Factsheet for more information and resources.

Setbacks

Can setbacks be required for ADUs?

Yes. A local agency may impose objective development standards, such as setbacks, for the creation of ADUs. A setback of no more than four feet from the side and rear lot lines shall be required for an attached or detached ADU (Gov. Code, § 66314, subd. (d)(7)). Additional setback requirements may be required in the Coastal Zone if required by a local Coastal Program (Gov. Code, § 66329).

Are setbacks required for ADUs/JADUs created within an existing structure or replacing an existing structure?

No setback shall be required for an ADU or JADU created within an existing living area or accessory structure or an ADU created in a new structure in the same location and to the same dimensions as an existing structure (Gov. Code, § 66314, subd. (d)(7)).

Can a local agency impose front setbacks?

Yes. A local agency may apply front yard setbacks for ADUs, but front yard setbacks cannot preclude an ADU of at least 800 square feet from being built on the property, even if that ADU would exist partially or wholly within the front setback (Gov. Code, § 66321, subd. (b)(3)).

Can a local agency require an ADU to be built in an alternate location to comply with front setback requirements?

Maybe. If the ADU is a unit described under Government Code section 66314, then the local agency could have a requirement that the ADU be built in the backyard. If at least an 800 square foot unit cannot be built in the backyard, then the local agency must allow the ADU to be built within the front setback if necessary to accommodate the ADU (Gov. Code, § 66314, subd. (b)(1)). However, if the ADU is a unit described under Government Code section 66323, then the local agency cannot impose local standards, including front setbacks, and may not require the unit to be built in an alternate location (Gov. Code, § 66323, subd. (b)).

Is there a distance requirement between an ADU and other structures on the lot?

State ADU Law does not address the distance between an ADU and other structures on a lot. A local agency may impose objective development standards for the creation of some ADUs,

and all ADUs must comply with local building codes. However, development standards should not unreasonably restrict the creation of ADUs. (Gov. Code, § 66311.) Minimum distance or other requirements may not be applied if they would unreasonably restrict the creation of ADUs, unless they are a requirement of a Building or Fire Code (Gov. Code, § 66314, subd. (d)(8)).

Size Requirements and Restrictions

How is the square footage of an ADU or JADU calculated?

In several places, State ADU Law refers to “square feet of interior livable space” or “square feet of livable space.” (See, e.g., Gov. Code, §§ 66321, subd. (b)(2), (b)(3); 66323, subd. (a)(2)(A).) Government Code section 66313, subdivision (e) defines livable space as “a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.” Livable space includes bedrooms, bathrooms, kitchens, laundry rooms, closets, and interior stairs.

Can minimum lot size requirements be imposed on ADUs?

No. Local governments may not include minimum lot size requirements for ADUs (Gov. Code, § 66314, subd. (b)(1)).

Can lot coverage or floor area ratio preclude an ADU?

Limits on lot coverage or any floor area ratio requirements cannot preclude the creation of an ADU of at least 800 square feet of interior livable space that maintains four-foot rear and side setbacks. While floor area ratio and lot coverage requirements can be applied to other ADUs, such requirements must not unreasonably restrict the creation of ADUs. (Gov. Code, §§ 66321, subd. (b)(3); 66311.)

Can minimum and maximum unit sizes be established for ADUs?

Yes. A local government may, by ordinance, establish minimum and maximum unit size requirements for both attached and detached ADUs; however, maximum unit size requirements must allow an ADU of at least 850 square feet of interior livable space, or 1,000 square feet of interior livable space for ADUs with more than one bedroom. (Gov. Code, § 66321, subd. (b)(2).) For local agencies without a compliant ADU ordinance, maximum unit sizes are 1,200 square feet of interior livable space for a new detached ADU (Gov. Code, § 66314, subd. (d)(4)) and up to 50 percent of the floor area of the existing primary dwelling for an attached ADU (at least 800 square feet of interior livable space) (Gov. Code, §§ 66314, subd. (d)(5); 66321, subd. (b)(3)). Finally, the local agency must not establish by ordinance a minimum square footage requirement that prohibits the development of an efficiency unit as defined in Health and Safety Code section 17958.1. An efficiency unit may be as small as 150 square feet in floor area (HSC, § 17958.1).

The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to unit size requirements. (Gov. Code, § 66323, subd. (a)(1).)

Can open space or landscaping requirements be used to limit the size of or deny an ADU permit?

No. A local agency's open space zoning requirements may not deny an ADU of at least 800 square feet of interior livable space with four-foot rear and side setbacks (Gov. Code, § 66321,

subd. (b)(3)). In addition, 66323 Units are not subject to local open space and landscaping requirements in an ADU ordinance (Gov. Code, § 66323, subd. (b)).

Can a percentage of the primary dwelling be used to limit the maximum size of an attached ADU?

Yes. Local agencies may utilize a percentage (e.g., not greater than 50 percent) of the existing primary dwelling as a maximum unit size for attached ADUs, but only if it does not restrict an ADU's size to less than 850 square feet of interior livable space, or 1,000 square feet of interior livable space for ADUs with more than one bedroom (Gov. Code, §§ 66314, subd. (d)(4); 66321 (b)(2)).

Can maximum unit sizes exceed 1,200 square feet for ADUs?

Yes. Maximum unit sizes can exceed 1,200 square feet for ADUs through the adoption of a less stringent local ADU ordinance. State ADU Law does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ADUs. (Gov. Code, § 66325, subd. (b).)

Solar Requirements

Are solar systems required for newly constructed ADUs?

Yes, newly constructed ADUs are subject to the California Energy Code requirement (excluding manufactured homes) to provide solar systems if the unit(s) is a newly constructed, detached ADU (though some exceptions apply). Per the California Energy Commission (CEC), the solar systems can be installed on the ADU or on the primary dwelling unit. ADUs that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from non-residential to residential space, are not subject to the California Energy Code requirement to provide solar systems.

Please refer to the CEC on this matter. For more information, see the CEC's website at www.energy.ca.gov. You may email your questions to title24@energy.ca.gov, or contact the Energy Standards Hotline at 800-772-3300. CEC memos can also be found on HCD's website at <https://www.hcd.ca.gov/policy-and-research/accessory-dwelling-units>.

Tiny Homes

Are "tiny homes" considered ADUs?

Possibly. While State ADU Law does not specifically reference "tiny homes," "tiny home" is an industry term that can mean different structures or vehicles. If the unit meets the definition of an ADU in Government Code section 66313, subdivision (a), it is subject to ADU Law. For more information on "tiny homes," see Information Bulletin 2016-01 at <https://www.hcd.ca.gov/policy-research/docs/hcd-bulletin-tiny-home-ib-2016-01.pdf>. You may also contact HCD's Division of Codes and Standards at ContactMH-FBH@hcd.ca.gov.

Types of ADUs

What are attached ADUs?

An attached ADU is a newly created (constructed) dwelling structure that structurally abuts (and connects to) an existing or proposed primary dwelling or accessory structure (Gov. Code, § 66314, subd. (d)(3)). This can be constructed on top of or below the primary dwelling. The attached ADU extends beyond the building plane of the existing or proposed primary dwelling unit. An attached ADU shall not exceed 50 percent of the existing primary dwelling's floor area size. (Gov. Code, § 66314, subd. (d)(4).)

Examples of attached ADUs include, but are not limited to:

- An ADU addition to a duplex.
- An ADU built on top of an attached garage.
- An ADU built as a new second story of a single-family dwelling.
- An ADU built in a newly constructed basement.

What are converted ADUs?

Converted ADUs are dwelling units that are created from existing space within proposed or existing primary dwelling units or existing accessory structures. For single family residences, the converted ADU is created from the proposed or existing space of the single-family residence or the existing space of an accessory structure. For multifamily dwelling structures, the converted ADUs are created from portions of the multifamily dwelling structures that are not used as livable space (i.e., storage rooms, passageways, etc.). (Gov. Code, § 66323, subds. (a)(1), (a)(3)(A).)

What standards apply to ADU conversions?

Objective standards related to height, lot coverage, landscape, design, development, and architectural standards in the local ADU ordinance do not apply to ADU conversions. However, since ADU conversions are created within an existing structure, the height of ADU conversions are limited to the dimension of the original structure. ADU conversions are not subject to setback requirements because they are created within an existing living area or are constructed in the same location and to the same dimensions as an existing structure. (Gov. Code, § 66323, subds. (a)(1), (a)(3)(A).) ADU conversions are subject to all applicable building, health and safety, and fire standards for dwellings.

Can accessory structures be converted into an ADU?

Yes. The conversion of detached garages, sheds, and other existing detached accessory structures into ADUs is permitted by State ADU Law (Gov. Code, §§ 66314, subd. (d)(3); 66323, subds. (a)(1), (a)(4)).

What are Detached ADUs?

Detached ADUs are newly constructed dwelling units that are created on a lot with an existing or proposed single-family or multifamily dwelling structure but are detached from the primary dwelling (Gov. Code, §§ 66314, subd. (d)(3); 66323, subds. (a)(1), (a)(2), (a)(4)(A)).

Can detached ADUs on multifamily lots be attached to each other?

Yes. Multifamily lots qualify for two detached, new construction ADUs on lots with a proposed

multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, not to exceed the total number of existing units on the lot. These ADUs are detached from the primary multifamily structure but do not have to be detached from each other or other accessory structures on the lot. (Gov. Code, § 66323, subd. (a)(4)(A).)

For more information on 66323 Units, please see the “66323 Units” section above.

Unpermitted Structures and ADUs

Can a local agency deny a permit for an unpermitted ADU or JADU built prior to January 1, 2020?

Yes, but only with specific findings. A local agency shall not deny a permit for an unpermitted ADU that was constructed before January 1, 2020, due to the ADU being in violation of building standards, non-compliance with State ADU Law, or any local ordinance regulating ADUs (Gov. Code, § 66311.7, subd. (a)). However, the local agency may deny the permit if the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure, or if the building is deemed substandard pursuant to section 17920.3 of the Health and Safety Code (Gov. Code, § 66311.7, subds. (b), (c)). Please note, corrections, requirements, or issues relating to the building code or health and safety are under the local agency’s discretion and purview. Applicants applying for a permit for a previously unpermitted dwelling should follow the local agency’s appeals process if they feel there is a discrepancy with corrections or denials issued by the local agency.

How does an applicant know what items are related to health and safety and may lead to needing corrections for an unpermitted ADU or JADU?

A local agency shall inform the public about the provisions of this section through public information resources, including permit checklists and the local agency’s internet website, which shall include both of the following: (1) a checklist of the conditions specified in Section 17920.3 of the Health and Safety Code that would deem a building substandard, and (2) information that, before applying for a permit, the homeowner may obtain a confidential third-party code inspection from a licensed contractor to determine the unit’s existing condition or potential scope of building improvements (Gov. Code, § 66311.7, subd. (d)(1), (d)(2)).³

Utilities

Can a local agency, special district, or water corporation require a new or separate connection for an ADU or JADU?

ADUs and JADUs created from the existing space of a primary dwelling or accessory structure pursuant to Government Code section 66323, subdivision (a)(1), cannot be required to install a new or separate connection unless the ADU or JADU is constructed concurrently with a new single-family dwelling. For all other ADUs and JADUs not created pursuant to Government Code section 66323, subdivision (a)(1), a new or separate connection directly from the utility to the ADU or JADU may be required (Gov. Code, § 66311.5, subds. (d), (e)).

³ See the Department of Consumer Affairs’ Contractors State License Board’s contractor license check resource, available at <https://www2.cslb.ca.gov/online services/checklicense/checklicense.aspx>.

What if I have questions about electrical or gas utilities in connection with an ADU?

HCD does not have authority over issues related to gas and electrical services. If an applicant believes that a local utility provider is not complying with connection requirements, fee schedules, or other issues that impact the creation of or service of an ADU, the applicant can file a complaint with the appropriate agency.

For privately owned public utilities such as PG&E, contact the California Public Utilities Commission (CPUC) by using CPUC's online complaint form, by calling 1-800-649-7570, or by sending a letter to:

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

For publicly owned utilities such as SMUD, the applicant will need to contact the utility directly and follow their complaint process.

Zoning, Development, and Other Standards

Must ADUs be allowed jurisdiction-wide?

No. Local agencies may, by ordinance, designate where ADUs are permitted within zones that allow residential use. However, any limits on where ADUs are allowed may only be based on the adequacy of water and sewer service and on the impacts on traffic flow and public safety. (Gov. Code, § 66314, subd. (a).)

Local governments may not preclude the creation of ADUs altogether, and any limitation should be accompanied by detailed findings of fact explaining why ADU limitations are required and consistent with these factors. If a lot with a residence has been rezoned to a use that does not allow for residential uses, that lot is no longer eligible for an ADU. (Gov. Code, §§ 66314; 66323, subd. (a).) Impacts on traffic flow should consider factors like lower car ownership rates for ADUs. Local governments may develop alternative procedures, standards, or special conditions with mitigations for allowing ADUs in areas with potential health and safety concerns. Additionally, these designated areas cannot preclude units described in Government Code section 66323. If a local agency wishes to limit development of all ADUs, including units described in Government code section 66323, then the local agency may impose "a moratorium or similar restriction or limitation on housing development" as described in Government Code section 66300, subdivision (b)(1)(B), only with HCD's approval. Note that any such moratorium or restriction may only be imposed to "specifically protect against an imminent threat to ... health and safety...." (Gov. Code, § 66300, subd. (b)(1)(B)(i).)

Can local agencies restrict ADUs based on Fire Hazard Severity Zones or other environmental hazards?

HCD understands that extreme weather conditions occur, and the threat of destructive wildfires cannot be ignored. Some agencies have used the High (HFHSZ) and Very High Fire Hazard Severity Zone (VHFHSZ) maps provided by CAL FIRE to mark areas where ADUs may be restricted or prohibited altogether. However, according to CAL FIRE, the HFHSZ and VHFHSZ maps are intended to govern building materials used in construction and defining zones of defensibility around structures. These are *not* intended to restrict housing development. The presence of a High Fire Hazard Severity Zone is not a conclusive rationale to warrant

restricting ADUs. A restriction based on the threat to public safety should be supported with findings detailing the impact of ADUs on public safety. (Gov. Code, § 66314, subd. (a).)

Can an ADU application be denied due to lot density?

No. An ADU ordinance shall provide that ADUs do not exceed the allowable density on the lot (Gov. Code, § 66314, subd. (c)). Additionally, ADUs which conform to Government Code section 66314 shall not be considered to exceed the allowable density for the lot (Gov. Code, §§ 66314, subd. (c); 66319).

Can ADUs serve to qualify a project for a density bonus pursuant to State Density Bonus Law (SDBL), even though the general plan designation on the site allows less than five primary units?

Yes. A project initially qualifies under the SDBL when the project's "total units," as defined in the SDBL (i.e., the number of units in the project *before* a density bonus is received) meet or exceed five units (Gov. Code, § 65915, subd. (o)(8)). Although the SDBL makes no mention of ADUs in its text, it likewise does not expressly narrow the definition of a unit to exclude ADUs. Provided they are counted within the total units of the project, ADUs are a type of housing unit that may be counted for the purposes of achieving the five total unit minimum.

If ADUs can be used to qualify a project under the SDBL's minimum total unit requirement, can they likewise be used to calculate a density bonus?

No. The calculation of a density bonus is based solely on a site's maximum allowable residential density, which does not include ADUs. A density bonus is defined as "a density increases over the otherwise maximum allowable gross residential density..." (Gov. Code, § 65915, subd. (f)). Maximum allowable residential density is defined as "the greatest number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan." (Gov. Code, § 65915, subd. (o)(6).) As an example, if the zoning ordinance allows up to two units and the general plan allows up to three, the applicable maximum allowable residential density (i.e., base density) on the site is three units, even though the addition of two ADUs brings the "total units" to five (see question above). The density bonus would then be calculated on top of a base density of three units, not five.

Can a local government apply design and development standards?

Yes. With an adopted ADU ordinance in compliance with State ADU Law, a local government may apply objective development and design standards 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. These standards must be objective to allow ministerial review of an ADU. (Gov. Code, §§ 66314, subd. (b)(1); 66316.) ADUs created under Government Code section 66323 shall not be subject to design and development standards except for those that are specified in section 66323. (Gov. Code, § 66323, subds. (a), (b)).

Can an ADU be built in a historic district or if the primary residence is subject to historic preservation?

Yes. ADUs are allowed within a historic district and on lots where the primary residence is subject to historic preservation. State ADU Law allows for a local agency to impose standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources. (Gov. Code, § 66314, subd. (b)(1).)

As with non-historic resources, an agency may impose objective standards that do not unreasonably restrict the creation of ADUs (Gov. Code, § 66311). Local agencies are encouraged to incorporate these standards into their ordinances and to submit these standards along with their ordinances to HCD.

How should demolition of garages in conjunction with the permitting of an ADU be handled by a local or permitting agency?

The local or permitting agency must review and issue the demolition permit and ADU permit at the same time. The applicant shall not be required to provide written notice or post a placard for the demolition of the garage unless the property is located in an architecturally and historically significant historic district. (Gov. Code, § 66314, subds. (e), (f).)

Resources



Changes to State ADU Laws

AB 1154

AB 1154 (Chapter 507, Statutes of 2025) made various changes to State ADU Law (Gov. Code, § 66333) regarding JADUs and went into effect on January 1, 2026. This bill:

- Specifies that if a JADU has shared sanitation facilities with the primary structure, owner-occupancy will be required. If the JADU does not have shared sanitation facilities, owner-occupancy will not be required (Gov. Code, § 66333, subd. (b)).
- Requires that JADUs can no longer be used as short-term rentals and, if rented, must now be rented for longer than 30 days (Gov. Code, § 66333, subd. (g)).

SB 9

SB 9 (Chapter 510, Statutes of 2025) made various changes to State ADU Law (Gov. Code, § 66326) regarding requirements for local jurisdictions when submitting ordinances to HCD and went into effect on January 1, 2026. This bill:

- Clarifies that if a local agency fails to submit an adopted ADU ordinance to HCD within the 60-day timeline or fails to respond to HCD's findings regarding its ordinance within the 30-day timeline, that ordinance is null and void and the local agency must only apply State ADU Law when permitting ADUs (Gov. Code, § 66326, subd. (d)).

SB 543

SB 543 (Chapter 520, Statutes of 2025) made various changes to State ADU Law (Gov. Code, §§ 66311, 66313, 66317, 66320, 66323; 66324; 66327; 66325; 66332 and added sections 66335; 66335.5; and 66339.5) regarding requirements for local jurisdictions when submitting ordinances to HCD and went into effect on January 1, 2026. This bill:

- Revises the definition of a “junior accessory dwelling unit” to require the size of a JADU to be no more than 500 square feet of interior livable space (Gov. Code, § 66313, subd. (d)).
- Expands HCD’s authority over Chapter 13 of Division 1 of Title 7 of the Government Code, including but not limited to review, adopt, amend, or repeal guidelines to additionally grant that authority with respect to terms, references, and standards for JADUs (Gov. Code, § 66311).
- Revises the limitations on impact fees to, instead, prohibit impact fees upon the development of an ADU that has 750 square feet of interior livable space or less or JADU that has 500 square feet of interior livable space or less, and to require that any impact fee on an ADU that has more than 750 square feet of interior livable space be charged proportionately in relation to the square footage of the primary dwelling unit (Gov. Code, § 66311.5, subds. (a) – (d)).
- Requires a permitting agency to determine whether an application for an ADU or JADU is complete and provide written notice of the determination not later than 15 business days after the permitting agency received the application (Gov. Code, § 66317, subd. (a)(2)(A)).
- Requires the permitting agency to provide the applicant with a list of incomplete items and a description of how the application can be made complete in the written notice if it is determined that an application is incomplete (Gov. Code, § 66317, subd. (a)(2)(B)).
- Requires the permitting agency to provide a process for an application to be deemed complete and for applicants to appeal an incompleteness determination or denial, as provided, and requires the permitting agency to provide a final written determination by not later than 60 business days after receipt of the written appeal if a permit application is determined to be incomplete or is denied (Gov. Code, § 66317, subd. (d)(1)).
- Specifies that an ADU or JADU that contains less than 500 square feet of interior livable space does not increase assessable space (Gov. Code, § 66311, subds. (d)). This is important to the calculation and imposition of school fees.
- Revises size limitations to be based on the square footage of interior living space of the ADU (Gov. Code, § 66321, subds. (b)(2)(A), (b)(2)(B), and (b)(3)).
- Specifies the number of allowable ADUs described under Government Code section 66323 per lot (Gov. Code, § 66323, subd. (a)).
- Clarifies that fire sprinklers are not required for a JADU if the primary residence does not have fire sprinklers and that the addition of a JADU cannot trigger the requirement for fire sprinklers (Gov. Code, § 66323, subd. (d)).
- Adds section 66333.5, which specifies that if a local agency fails to submit an adopted JADU ordinance to HCD within the 60-day timeline or fails to respond to HCD’s findings regarding their ordinance within the 30-day timeline, that ordinance is null and void and the local agency must only apply State ADU Law when processing applications for JADUs.

New Government Code Sections	Previous Government Code Sections
66311.5	66324
66313.5	66327
66311.7	66332

AB 462

AB 462 (Chapter 491, Statutes of 2025) made various changes to State ADU Law (Gov. Code, §§ 66328 and 66329) regarding requirements for the issuance of a certificate of occupancy during a declared state of emergency and creating an exception in coastal jurisdictions. This bill went into effect on October 10, 2025, as an urgency bill. This bill:

- Requires a local agency to issue a certificate of occupancy for an ADU constructed in a county that is subject to a proclamation of a state of emergency made by the Governor on or after February 1, 2025, even if the primary dwelling has not yet been issued a certificate of occupancy, if certain requirements are met, including that the primary dwelling was substantially damaged or destroyed by an event referenced in the state of emergency proclamation (Gov. Code, § 66328).
- Clarifies application processing when in a coastal zone by requiring a local government or the Coastal Commission, as specified, to either approve or deny a coastal development permit application for an ADU within 60 days of receiving a completed application (Gov. Code, § 66329, subd. (a)).

AB 130

AB 130 (Chapter 22, Statutes of 2025) made changes to the Civil Code and State ADU Law (Gov. Code, § 66323) regarding ADUs and went into effect on June 30, 2025. This bill:

- Specifies that reasonable restrictions in covenants, restrictions, and conditions, as described in the Civil Code, shall not include any fees or other financial requirements (Civil Code, § 714.3, subd. (b)).
- Removes Government Code section 66323, subdivision (g), which allowed the imposition of objective standards on ADUs in multifamily dwelling structures if the local agency had adopted an ADU ordinance by July 1, 2018.

AB 2533

AB 2533 (Chapter 834, Statutes of 2024) made various changes to State ADU Law (Gov. Code, § 66311.7) regarding unpermitted ADUs and went into effect on January 1, 2025. This bill:

- Prohibits a local agency from denying a permit for an unpermitted ADU or JADU that was constructed before January 1, 2020, for building code violations, unless the local agency makes a finding that correcting the violation is necessary to comply with conditions that would otherwise deem a building substandard.
- Requires a local agency to inform the public about the provisions prohibiting denial of a permit for an unpermitted ADU or JADU.
- Requires this information to include a checklist of the conditions that deem a building substandard and to inform homeowners that, before submitting a permit application, the

homeowner may obtain a confidential third-party code inspection from a licensed contractor.

- Prohibits a local agency from requiring a homeowner to pay impact fees or connection or capacity charges except under specified circumstances.
- Authorizes an inspector from a local agency, upon receiving an application for a permit for a previously unpermitted ADU or JADU constructed before January 1, 2020, to inspect the unit for compliance with health and safety standards and provide recommendations to comply with health and safety standards.
- Prohibits the local agency from penalizing an applicant for having the unpermitted ADU and would require the local agency to approve necessary permits to correct noncompliance with health and safety standards.

SB 1211

SB 1211 (Chapter 296, Statutes of 2024) made various changes to State ADU Law (Gov. Code, §§ 66313, 66314, 66323) with regard to replacement parking and 66323 Units on lots with existing or proposed multifamily dwellings and went into effect on January 1, 2025. This bill:

- Defines “livable space” as a space in a dwelling intended for human habitation, as the term appears in Government Code sections 66313, subdivision (e), and 66323, subdivision (a)(3)(A).
- Specifies that uncovered, off-street parking spaces demolished in conjunction with the construction of an ADU do not need to be replaced.
- Authorizes up to eight detached ADUs on a lot with an existing multifamily dwelling, provided that the number of ADUs does not exceed the number of existing units on the lot.
- Prohibits a local agency from imposing any objective development standards on 66323 Units that are not authorized by the provisions of Government Code section 66323, subdivision (a).

SB 477

SB 477 (Chapter 7, Statutes of 2024) made changes to the numbering of the sections of Government Code for State ADU and JADU Laws. The bill went into effect on March 25, 2024.

New Government Code Sections	Previous Government Code Sections
Article 1. General Provisions	
66310	65852.150 (a)
66311	65852.150 (b)
66312	65852.150 (c)
66313	General Definition Section 65852.2 (j) 65852.22 (j)
Article 2. Accessory Dwelling Unit Approvals	
66314	65852.2 (a)(1)(A), (D)(i)-(xii), (a)(4)-(5)
66315	65852.2 (a)(8)
66316	65852.2 (a)(6)
66317	65852.2 (a)(3), (a)(7)
66318	65852.2 (a)(9) 65852.2 (a)(2)
66319	65852.2 (a)(10)
66320	65852.2 (b)
66321	65852.2 (c)
66322	65852.2 (d)
66323	65852.2 (e)
66324	65852.2 (f)
66325	65852.2 (g)
66326	65852.2 (h)
66327	65852.2 (i)
66328	65852.2 (k)
66329	65852.2 (l)
66330	65852.2 (m)
66331	65852.2 (n)
66332	65852.23.
Article 3. Junior Accessory Dwelling Units	
66333	65852.22 (a)
66334	65852.22 (b)
66335	65852.22 (c)
66336	65852.22 (d)
66337	65852.22 (e)
66338	65852.22 (f)-(g)
66339	65852.22 (h)
Article 4. Accessory Dwelling Unit Sales	
66340	65852.26 (b)
66341	65852.26 (a)
66342	65852.2 (a)(10)

Note: The statutory references below have been adjusted to the new numbering described above.

AB 976 and AB 1033

AB 976 (Chapter 751, Statutes of 2023) and AB 1033 (Chapter 1033, Statutes of 2023) made changes to State ADU Law (Gov. Code, §§ 66310-66342) regarding the occupancy, sale, and separate conveyance of ADUs and went into effect on January 1, 2024. These bills:

- Removed the existing 2025 sunset prohibition on a local agency imposing an owner-occupancy requirement on any ADU and would instead prohibit a local agency from requiring owner-occupancy for an ADU (Gov. Code, § 66315).
- Authorized a local agency to adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and ADU(s) as condominiums, subject to certain conditions (Gov. Code, §§ 66340-66342). Specifically:
 - Condominiums shall be created pursuant to the Davis-Stirling Common Interest Development Act.
 - Condominiums shall be created in conformance with the Subdivision Map Act.
 - Requires a safety inspection of the ADU prior to recordation of the condominium plan.
 - Requires lienholders' consent prior to recordation of the subdivision map or condominium plan.
 - The local agency shall provide notice to consumers regarding requirements, establishment of condominium, and lienholder consent.
 - Requires homeowner notice to utilities.
 - The owner of a separate interest in an existing planned development must obtain express written authorization from the association.

AB 1332

AB 1332 (Chapter 759, Statutes of 2023) added section 65852.27 to the Government Code to expedite the approval of ADUs and went into effect on January 1, 2024. This bill:

- Requires the local agency to develop a program for the preapproval of ADU plans by January 1, 2025.
- Requires the local agency to accept ADU plan submissions for preapproval from any party and approve or deny applications pursuant to standards established in Government Code sections 66314-66342.
- Requires the local agency to post preapproved ADU plans and the contact information of the applicant on the local agency's internet website.
- Allows the local agency to also post plans pre-approved by other local or state agencies.
- Authorizes a local agency to charge a fee to an applicant for the preapproval of an ADU plan.
- Requires a local agency to approve or deny within 30 days an application for a detached ADU that utilizes either a plan preapproved by the local agency or another agency within the state, or a plan that is identical to a plan in a previously approved application for a detached ADU. The plans must be valid within the current triennial California Building Standards Code rulemaking cycle.

AB 434

AB 434 (Chapter 740, Statutes of 2023) modified amended Government Code section 65585, subdivision (j), by adding State ADU Law (Gov. Code, §§ 66310-66342) and SB 9 (Gov. Code, §§ 65852.21, 66411.7), among others, to the list of laws that HCD is authorized to enforce, including HCD's authority to notify a city, county, city and county, or the Attorney General when the planning agency of a city, county, or city and county fails to comply with those laws. The bill went into effect on January 1, 2024.

AB 345

AB 345 (Chapter 343, Statutes of 2021) built upon recent changes to State ADU Law, to require cities to allow the separate conveyance of ADUs from the primary dwelling in certain circumstances, provided they meet certain conditions, including those listed below, found in Government Code section 66341:

- The ADU or primary dwelling was built or developed by a qualified nonprofit (Gov. Code, § 66341, subd. (a)).
- There is an enforceable restriction on the use of the property between the low-income buyer and nonprofit that satisfies the requirements of Section 402.1 of the Revenue and Taxation Code (Gov. Code, § 66341, subd. (b)).
- The entire property is subject to the affordability restrictions to assure that the ADU and primary dwelling are preserved for owner-occupied, low-income housing for 45 years and are sold or resold only to a qualified buyer (Gov. Code, § 66341, subd. (c)).
- The property is held in a recorded tenancy in common agreement that meets certain requirements (Gov. Code, § 66341, subd. (c)).

AB 345 does not apply to JADUs, and local ordinances must continue to prohibit JADUs from being sold separately from the primary residence.

AB 3182

AB 3182 (Chapter 198, Statutes of 2020) built upon recent changes to ADU Law, specifically Government Code sections 66310-66342 and Civil Code Sections 4740 and 4741, to further address barriers to the development and use of ADUs and JADUs.

This legislation, among other changes, addressed the following:

- States that an application for the creation of an ADU or JADU shall be deemed approved (not just subject to ministerial approval) if the local agency has not approved or denied the completed application within 60 days (Gov. Code, § 66317, subd. (a)).
- Requires ministerial approval of an application for a building permit within a residential or mixed-use zone to create one ADU and one JADU per lot (not one or the other), within the proposed or existing single-family dwelling, if certain conditions are met (Gov. Code, § 66323, subd. (a)(1)(A)).

- Provides for the rental or leasing of a separate interest ADU or JADU in a common interest development, notwithstanding governing documents that otherwise appear to prohibit renting or leasing of a unit, and without regard to the date of the governing documents (Civ. Code, §§ 4740, subd. (a); 4741, subd. (a)).
- Provides that not less than 25 percent of the separate interest units within a common interest development be allowed as rental or leasable units (Civ. Code, § 4741, subd. (b)).

AB 68, AB 881, and SB 13

AB 68 (Chapter 655, Statutes of 2019), AB 881 (Chapter 659, Statutes of 2019), and SB 13 (Chapter 653, Statutes of 2019) built upon recent changes to State ADU and JADU Law and further address barriers to the development of ADUs and JADUs.

This legislation, among other changes, addresses the following:

- Prohibits local agencies from including in development standards for ADUs requirements on minimum lot size. (Gov. Code, § 66314, subd. (b)(1)).
- Clarifies that areas designated by local agencies for ADUs may be based on the adequacy of water and sewer services, as well as on impacts on traffic flow and public safety (Gov. Code, § 66314, subd. (a)).
- Eliminates all owner-occupancy requirements by local agencies for ADUs approved between January 1, 2020, and January 1, 2025 (Gov. Code, § 66315).
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom and requires approval of a permit to build an ADU of up to 800 square feet (Gov. Code, § 66321, subds. (b)(2), (b)(3)).
- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement of off-street parking spaces cannot be required by the local agency (Gov. Code, § 66314, subd. (d)(11)).
- Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Gov. Code, §§ 66317, subd. (a); 66335, subd. (2)).
- Clarifies that “public transit” includes various means of transportation that charge set fees, run on fixed routes, and are available to the public (Gov. Code, § 66313, subd. (m)).
- Establishes impact fee exemptions and limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees, and ADUs that are 750 square feet or larger may be charged impact fees but only such fees that are proportional in size (by square foot) to those for the primary dwelling unit (Gov. Code, § 66311.5, subd. (c)(1)).
- Defines an “accessory structure” to mean a structure that is accessory and incidental to a dwelling on the same lot (Gov. Code, § 66313, subd. (b)).
- Authorizes HCD to notify the local agency if HCD finds that the local ADU ordinance is not in compliance with state law (Gov. Code, § 66326, subd. (b)(1)).
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy its Regional Housing Needs Allocation (RHNA) (Gov. Code, § 65583.1, subd. (a)).
- Permits JADUs even where a local agency has not adopted an ordinance expressly authorizing them (Gov. Code, § 66335.5).

- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom and an interior entry into the single-family residence (Gov. Code, § 66333, subd. (d)).
- Requires, upon application and approval, a local agency to delay enforcement against a qualifying substandard ADU for five years to allow the owner to correct the violation, so long as the violation is not a health and safety issue, as determined by the enforcement agency (Gov. Code, § 66331; HSC, § 17980.12).

AB 587, AB 670, and AB 671

In addition to the legislation listed above, AB 587 (Chapter 657, Statutes of 2019), AB 670 (Chapter 178, Statutes of 2019), and AB 671 (Chapter 658, Statutes of 2019) also have an impact on State ADU Law, particularly through Health and Safety Code section 17980.12.

These pieces of legislation, among other changes, address the following:

- AB 587 creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separately from the primary dwelling by allowing deed-restricted sales to occur if the local agency adopts an ordinance. To qualify, the primary dwelling and the ADU are to be built by a qualified nonprofit corporation whose mission is to provide units to low-income households. (Gov. Code, § 66340, 66341.)
- AB 670 provides that covenants, conditions, and restrictions that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable (Civ. Code, § 4751)).
- AB 671 requires local agencies' housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low-, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction, and operation of affordable ADUs (Gov. Code, § 65583; HSC, § 50504.5)).

Summary Table of Statutory Changes

Bill	Statute Amended	Section	Year Effective
AB 670 (2019)	Civil Code	4751	2020
AB 671 (2019)	Government Code	65583 (c)(7)	2020
AB 671 (2019)	Health and Safety Code	50504.5	2020
AB 3182 (2020)	Civil Code	4740 4741	2021
AB 345 (2021)	Government Code	65852.26	2022
SB 9 (2021)	Government Code	65852.21 66411.7	2022
AB 1584 (2022)	California Civil Code	714.3	2022
SB1069 (2016) AB 2299 (2016) SB 229 (2017) AB 494 (2017) AB 881 (2019) AB 68 (2019) SB 13 (2019) AB 3182 (2020) AB 345 (2021) AB 2221 (2022) SB 897 (2022) AB 976 (2023) AB 1033 (2023)	Government Code	65852.2	2023
AB 2406 (2016) AB 881 (2019) SB 897 (2022)	Government Code	65852.22	2023
SB 897 (2022)	Health and Safety Code	17980.12	2023
AB 1332 (2023)	Government Code	65852.27	2024
AB 434 (2023)	Government Code	65585 (j)	2024
SB 477 (2024)	Government Code	65852.150 65852.2 65852.22 65852.23 65852.26	2024
AB 2533 (2024)	Government Code	66322	2025
SB 1211 (2024)	Government Code	66313 66314 66323	2025

AB 3057 (2024)	Public Resources Code	21080.17	2025
AB 130	Government Code	66323	2025
AB 462	Government Code	66328 66329	2025
SB 543	Government Code	66311 66313 66317 66320 66323 66324 66327 66325 66332 66335 66335.5 66339.5	2026
SB 9 (2025)	Government Code	66326	2026
AB 1154 (2025)	Government Code	66333	2026
SB 1077 (2024)	Public Resources Code	30500.5	2026



CITY OF CARMEL-BY-THE-SEA
City Council
Staff Report

August 4, 2026
ORDERS OF BUSINESS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Brandon Swanson, Acting City Administrator

APPROVED BY: Brandon Swanson, Acting City Administrator

SUBJECT: Provide Direction Regarding a Potential Urgency Ordinance
Addressing Home Hardening and Wildfire Safety Regulations
Citywide

RECOMMENDATION:

Receive a presentation from staff and provide direction regarding whether to prepare an urgency ordinance establishing interim home hardening regulations applicable citywide.

BACKGROUND / SUMMARY:

BACKGROUND

Over the past year, the Wildfire Prevention Committee, including staff have evaluated opportunities to improve wildfire resilience throughout Carmel-by-the-Sea. One of those opportunities is strengthening regulations related to home hardening and defensible space. Council is being asked to consider four recommendations for an urgency ordinance to offer additional wildfire protection citywide while more permanent regulations are developed.

This discussion is intended to obtain policy direction only. No ordinance or resolution has been prepared for Council consideration at this meeting. Staff is requesting guidance regarding whether Council wishes to proceed with an urgency ordinance and, if so, which recommendations should be included. If directed to proceed, staff will prepare a draft urgency ordinance for Council consideration at the earliest possible meeting.

Three of the four recommendations would extend wildfire safety standards that already apply within Fire Hazard Severity Zones and Wildland-Urban Interface areas to all properties citywide. The remaining recommendation would remove an unintended regulatory barrier that discourages homeowners from installing fire-safe landscaping materials immediately adjacent to their homes.

DISCUSSION

City Council is being asked to consider the following four recommendations for inclusion in a potential urgency ordinance.

1. Gravel Adjacent to Structures

Purpose

Creating a noncombustible area immediately adjacent to structures is one of the most effective ways to reduce the risk of ember ignition during a wildfire. Gravel is widely recognized as a safe material for the first five feet surrounding a home because it does not ignite or contribute to fire spread.

Current Regulations

Throughout the City, including within the Fire Hazard Severity Zones and Wildland-Urban Interface (WUI), site coverage is regulated by Title 17 of the Carmel Municipal Code. The City's zoning regulations distinguish between permeable, semi-permeable, and non-permeable site coverage, all of which count toward the maximum site coverage allowed on a property. Site coverage is generally limited to approximately 22 percent of a parcel's base floor area, subject to certain limited exemptions.

Gravel is classified as 'permeable' site coverage, along with materials such as decking, stairs, sand-set brick and pavers, garden walkways, small paving stones, and arbors. Asphalt, concrete, mortared brick or stone, decomposed granite, balconies, walls, sheds, ponds, pools, and similar improvements are classified as 'non-permeable' site coverage and also count toward site coverage limits. Conversely, bark, wood chips, mulch, and similar organic landscape materials do not count toward site coverage calculations.

As a result, homeowners who replace combustible bark or mulch with fire-resistant gravel may unintentionally reduce the amount of allowable site coverage available on their property, creating a regulatory disincentive to install a safer landscaping material immediately adjacent to the home.

Proposed Urgency Ordinance

Exempt gravel from site coverage calculations when installed within five feet of a structure. This recommendation would remove an unintended barrier to creating the noncombustible "Zone 0" area recommended by CAL FIRE while maintaining existing site coverage limitations elsewhere on the property. All gravel would have to comply with the existing Design Guidelines (earth tone, muted colors, natural, etc.).

2. Firewood and Other Combustible Material Storage

Purpose

Firewood, lumber, and other combustible materials stored adjacent to homes are a common source of structural ignition during wildfires. Establishing consistent storage requirements throughout the City would reduce opportunities for embers to ignite combustible materials immediately adjacent to structures.

Current Regulations

Throughout the City, including within the Fire Hazard Severity Zones and Wildland-Urban Interface (WUI), the Property Maintenance Code and Nuisance Code prohibit conditions that create fire hazards or involve the storage of materials in a manner likely to constitute a fire hazard. While these provisions provide general authority to address hazardous conditions, they do not establish detailed standards governing where firewood or combustible materials may be stored.

Within designated Fire Hazard Severity Zones and Wildland-Urban Interface areas, State regulations are considerably more specific. Firewood and combustible materials may not be stored beneath buildings, beneath decks, or under eaves, canopies, or other projections. Firewood piles must generally be located at least 30 feet from structures unless completely covered by a fire-resistant material. In addition, exposed wood piles located within the defensible space must maintain at least ten feet of clearance to bare mineral soil in all directions.

Proposed Urgency Ordinance

Apply the existing Fire Hazard Severity Zone and WUI storage requirements citywide so that all properties are subject to the same fire-safe storage standards regardless of their mapped hazard designation.

3. Ember-Resistant Vents

Purpose

Wind-driven embers entering attic and crawlspace vents have been identified as one of the leading causes of structure ignition during wildfires. Modern ember-resistant vent technology significantly reduces this risk by preventing embers and flames from entering the building envelope while still providing required ventilation.

Current Regulations

Within Fire Hazard Severity Zones and Wildland-Urban Interface areas, ventilation openings are required to be protected with Wildfire Flame and Ember Resistant vents approved and listed by the California State Fire Marshal, or other WUI-compliant vents tested in accordance with ASTM E2886. These products must successfully pass rigorous flame and ember intrusion testing.

Outside the Fire Hazard Severity Zones and WUI areas, ventilation openings are not required to meet wildfire performance standards. Instead, the Building Code only

regulates the size of vent openings, requiring a minimum opening dimension of 1/16 inch and a maximum of 1/4 inch.

Proposed Urgency Ordinance

Apply the existing Fire Hazard Severity Zone and WUI ember-resistant vent requirements throughout the City. As under current law, the standards would apply only when vents are replaced or altered and would not require immediate retrofitting of existing homes.

4. Fire-Resistant Windows

Purpose

Windows (glazing) are among the most vulnerable components of a structure during a wildfire. Heat exposure can cause ordinary glass to fail, allowing flames and embers to enter a building. Modern dual-pane tempered glazing significantly improves a home's ability to withstand wildfire exposure.

Current Regulations

Throughout the entire City, including within the Fire Hazard Severity Zones and Wildland-Urban Interface (WUI), window placement is regulated by the California Building Code based upon fire separation distance from adjacent property lines. For sprinklered homes, windows are generally prohibited within three feet of a property line, while unlimited glazing is permitted beyond three feet. For homes without automatic fire sprinklers, windows are prohibited within three feet of the property line, limited to 25 percent of the wall area between three and five feet, and unrestricted beyond five feet.

Within Fire Hazard Severity Zones and Wildland-Urban Interface areas, additional wildfire construction standards also apply. Exterior windows, windows within exterior doors, and skylights must be constructed using dual-pane glazing with at least one pane of tempered glass or other approved assemblies such as glass block. Wood-framed windows remain permissible provided the assembly achieves the required 20-minute fire-resistance performance. These requirements apply when windows are replaced or altered and are not retroactive. Existing State regulations also provide exceptions where compliance would conflict with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Proposed Urgency Ordinance

Apply the existing Fire Hazard Severity Zone and WUI glazing standards throughout the City. As with existing State law, the requirements would apply only when windows are replaced or altered, would not require immediate retrofitting of existing homes, and would continue to recognize historic preservation exceptions.

ADDITIONAL HOME HARDENING TOPICS

The Wildfire Prevention Committee also discussed several additional home hardening measures that could further improve wildfire resilience. The Committee concluded that

these topics involve broader architectural, historic preservation, and neighborhood character considerations and are therefore more appropriately addressed through the ongoing Design Traditions 1.5 project rather than through an urgency ordinance.

These topics include:

- Wood shake roofing materials
- Eaves and exposed rafters
- Deck construction
- Gate/Fencing materials and design

To reinforce the temporary nature of the urgency ordinance, staff recommends that any ordinance ultimately adopted include a sunset provision automatically repealing the ordinance upon adoption of the revised Design Guidelines and associated permanent regulations.

NEXT STEPS

No ordinance or resolution is presented for adoption as part of this agenda item.

Staff is requesting policy direction regarding:

1. Whether the Council wishes to proceed with preparation of an urgency ordinance;
2. Which of the four recommendations should be included in the ordinance; and
3. Whether Council wishes staff to evaluate any additional home hardening recommendations before returning with a draft ordinance.

If directed to proceed, staff will prepare an urgency ordinance consistent with Council's direction and return to the City Council at the earliest possible meeting for formal consideration.

ENVIRONMENTAL REVIEW

Providing policy direction does not constitute a project under the California Environmental Quality Act (CEQA). Any urgency ordinance prepared as a result of Council direction will be evaluated for CEQA compliance prior to Council consideration.

FISCAL IMPACT:

Preparation and implementation of the proposed urgency ordinance can be accomplished with existing staff resources. Any additional permit review or enforcement responsibilities are expected to be minimal and incorporated into existing departmental operations.

PRIOR CITY COUNCIL ACTION:

ATTACHMENTS:

None