



CITY OF CARMEL-BY-THE-SEA PLANNING COMMISSION AGENDA

Planning Commissioners Mel Ahlborn, Erin Allen, Stefan Karapetkov, Michael LePage, Stephanie Locke

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

Special Meeting Thursday, September 25, 2025 4:00 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:

<https://www.google.com/url?q=https://ci-carmel-ca-us.zoom.us/j/86782147510?pwd%3Do6FeKlbOaCtaw3a5r5mmC8h8uCtPgP.1&sa=D&source=calendar&ust=1758559658288122&usg=AOvVaw3e7XjBEyLKzzo9Axsrp2v>

To attend Zoom webinar via telephone, dial +1 (669) 444-9171, Webinar ID: 867 8214 7510, Passcode: 001916

HOW TO OFFER PUBLIC COMMENT

The public may give public comment at this meeting in person, or by using 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 sgorman@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 - CHAMBERS

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. Persons are not required to provide their names, however, it is helpful for speakers to state their names so they may be identified in the minutes of the meeting. 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. If a member of the public attending the meeting remotely violates the Brown Act by failing to comply with these requirements of the Brown Act, then that speaker will be muted.

ANNOUNCEMENTS

PUBLIC HEARINGS

- 1) **ADU Ordinance Workshop:** Conduct a public workshop to gather feedback on a revised draft ordinance amending Title 17 relating to Accessory Dwelling Units
- 2) **Housing Element:** Provide an update on the 6th Cycle Housing Element Amendment

DIRECTOR'S REPORT

FUTURE AGENDA ITEMS

- 3) Next Regular Meeting: October 8, 2025

ADJOURNMENT

CORRESPONDENCE

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.

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the Planning Commission regarding any item on this agenda, received after the posting of the agenda will be available at City Hall located on Monte Verde Street between Ocean and Seventh Avenues during regular business hours.

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 Planning Commission Staff Report

**September 25, 2025
PUBLIC HEARINGS**

TO: Chair LePage and Planning Commissioners
SUBMITTED BY: Evan Kort, Senior Planner
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.

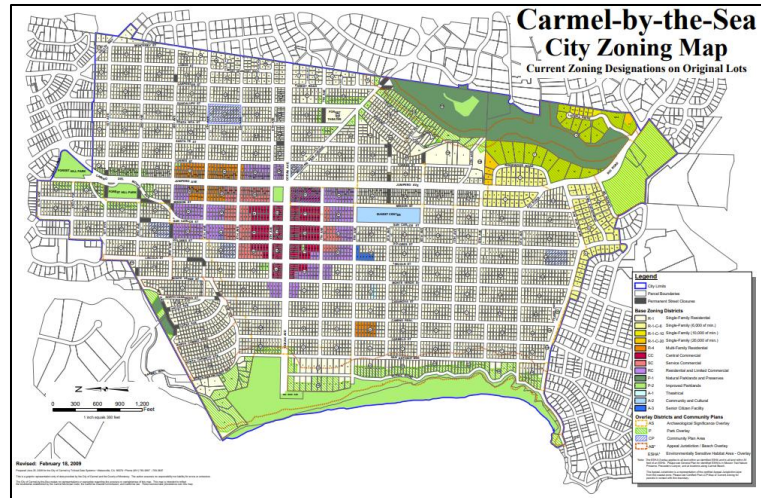


FIGURE 1. Coastal Access Parking Area [Map forthcoming].

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

17.ADU.010 Definitions.
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 17.ADU.050 Development Standards for ADUs of Multi-Family Properties.
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 17.ADU.100 Coastal Resource Protection
 17.ADU.100-110 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. ~~means An attached 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 is distinct from the definition of a junior ADU.
 2. **Detached.** A "Detached ADU" means an ADU that is within-constructed as an independent structure entirely separate from and sharinges 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~~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.

G.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.

~~D.E. 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.F. Coastal access~~ ~~Access parking~~ ~~Parking area~~ ~~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, ~~eteetc.~~), the frontage shall be determined by the driveway location of the subject property.

F.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.

G.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.

H.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.

I.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.

J.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.

K. 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~~ 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.

L.N.

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.

M.O. 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.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.

O.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~~Section 65852.2 and Section 65852.22~~ 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 ~~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~~ 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 ~~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 districts~~ 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 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~~ 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.

~~1.~~

~~a.~~

Notwithstanding CMC Section 17.ADU.030.B.1, an 800 square foot floor area allowance may be ~~allowed~~ granted exclusively for the creation of an attached or detached Type 3 ADU, as described in ~~section~~ Section 17.ADU.110.B.1.cxx.

~~2.~~

- ~~2-3.~~ 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.

- ~~3-4.~~ 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 ~~shall~~ may be allowed a maximum of 800 square feet regardless of such condition, as provided in ~~section~~ 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 available floor area ~~available~~ for establishment of the unit consistent with ~~section~~ Section 17.ADU.040.B, above.

~~Any portion of a detached ADU is located less than four (4') feet 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 as required by the City's Building Code~~ feet may be allowed if necessary for ingress and egress only as required by the City's Building Code ~~feet if necessary for ingress and egress only may be allowed for existing accessory structures.~~ The 150 square foot addition ~~shall match~~ 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 ~~for within 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 if necessary for ingress and egress only as required by the City's Building Code~~ feet may be allowed if necessary for ingress and egress only as required by the City's Building Code ~~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~~ Section 17.ADU.080100.QC.6, where ~~on-site~~ 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~~ 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~~ [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~~[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 [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~~[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~~[may](#) be allowed a maximum of 800 square feet regardless of such condition, as provided in ~~section~~[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~~[Section 17.ADU.040050.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 for within 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 a-its existing non-conforming setback.
 - i. Detached ADUs shall not be subject to composite setback requirements prescribed in CMC Section 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-Section 17.ADU.080100.QC.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.

~~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-Section 17.ADU.060070, 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 JADUs.

A. Type 1 and Type 2 Units:

- a. The unit(s) shall comply with all applicable ~~Administrative ADU Design Standards~~ Administrative ADU Design Standards adopted by the Planning Commission. The Planning Commission may develop, and from time to time amend, the ~~administrative~~ 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~~ Administrative ADU 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, ~~paint color and~~ 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 unhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.
 - 1.2. 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

~~c.d.~~ The existing building site is located within the Very High Fire Hazard Severity Zone (VHFHZ) pursuant to CMC [Section 17.ADU.070080.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 ~~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 [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~~ [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 ~~must~~ shall 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.~~

- 3.1.

- 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 [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.080-100 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;

- ~~a.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](#).

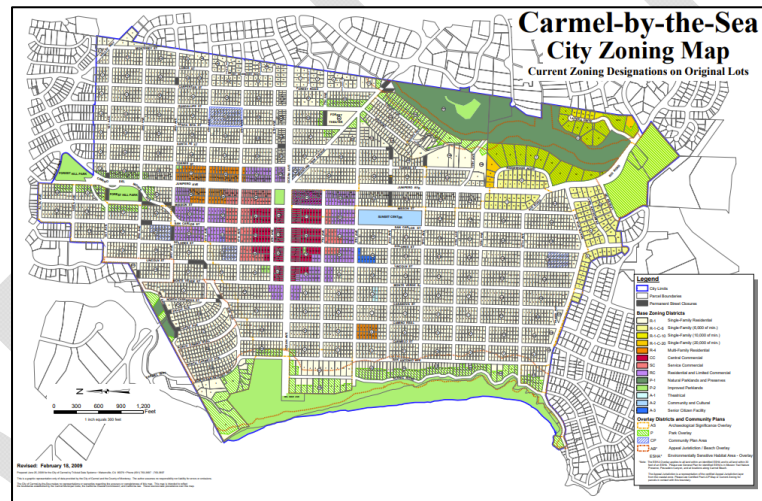


FIGURE 1. Coastal Access Parking Area [Map forthcoming].

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, nNew 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.
 - a-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.100-110 Application and Review Procedures.

A. Timing

1. The city shall ~~ministerally~~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~~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 units 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 ~~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 pursuant to Section 17.52.100 of this Title and shall be considered ~~ministerally~~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 [applicable standards described within this title.](#)
 - ii. All Type 3 units shall require approval of a Coastal Development Permit as follows:
 - [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.](#)
 - a. Standard Review. [Type 3 units 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 be reviewed consistent with procedures outlined in CMC Section 17.58.040-B, 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. ~~For ADUs and JADUs that~~ do not qualify as exempt development pursuant to Section 17.52.100 of this Title shall constitute development and therefore require a Coastal Development Permit in accordance with Section 17.52.090 of this Title. ÷The Planning Commission shall be the appropriate authority to the City shall approve or deny coastal development permit applications required by this Chapter 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, 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.

~~a.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.

~~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.

~~The date the application will be acted upon by the City’s review authority;~~

~~A statement that the development is within the coastal zone;~~

~~The date of filing of the application and the name of the applicant;~~

~~The number assigned to the application;~~

~~A description of the development and its location;~~

~~The procedure for which an appeal may be filed with the California Coastal Commission.~~

~~c.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.

~~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:~~

~~The date the application will be acted upon by the City's review authority;~~

~~A statement that the development is within the coastal zone;~~

~~The date of filing of the application and the name of the applicant;~~

~~The number assigned to the application;~~

~~A description of the development and its location;~~

~~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 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~~ 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.

G. Accessory Dwelling Units.

1. A building permit must be issued by the City prior to construction and/or development of any accessory dwelling unit.
 - a. 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. All accessory dwelling units shall conform with the following:
 - a. The lot must contain an existing or proposed primary dwelling and no other dwelling units. No more than one accessory dwelling unit (interior, new construction, or exemption) and one junior accessory dwelling unit (JADU) may be constructed on any lot.
 - b. Except as provided in CMC [17.10.040](#), Lot Mergers, no more than two accessory structures may be constructed on each building site.
 - c. 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.

- d. Except as modified by this subsection (G), and as may be permitted in section (5), 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.
 - e. 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 required for the accessory dwelling unit unless they are required for the existing single-family home.
 - f. An accessory dwelling unit conforming to the requirements of this section 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.
 - g. 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. When a Coastal Development Permit is also 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.
3. 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 applications for non-exception ADUs 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.
- a. Review Authority and Appeals.

1. Non-exception ADU. Except as provided in subsection (3) of this section, the Director of Community Planning and Building, or their designee, shall act on Coastal Development Permits (CDPs) for interior and new structure accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). If the permit is appealable to the California Coastal Commission, the Director's decision is final and appeals shall be made directly to the Coastal Commission. If the permit is not appealable, the Director's decision is final and not subject to further appeal.
2. Exemption ADUs. The Director of Community Planning and Building, or their designee, may act on Coastal Development Permits (CDPs) for exemption ADUs, or may be designated to another appropriate authority as provided in subsection (5), Accessory Dwelling Unit exception. The standard City appeal procedures shall apply to all Exemption ADU applications.
3. Concurrent Review. When an ADU or JADU is proposed with a CDP or other entitlement for a primary dwelling, the permit shall be reviewed by the same authority responsible for the primary dwelling. If the Director is not the final decision-maker under subsection (a), standard City appeal procedures shall also apply to the ADU or JADU, as applicable.

b. Parking.

1. No additional parking is required for any accessory dwelling unit or junior accessory dwelling unless the subject site maintains a street frontage on, or to the west of, Carmelo Street or North San Antonio Avenue. For sites where parking is required, one additional parking space shall be provided per accessory dwelling unit, which may either be provided as tandem parking on an existing or proposed driveway, or may provided elsewhere on site as described in CMC section 17.10.030.F.
 - a. 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.
2. If the accessory dwelling unit replaces an existing garage, carport, or covered parking structure, and the site is located on, or to the west of, Carmelo Street or North San Antonio Avenue, as described in subsection (g)(1) of this chapter, replacement spaces must be

provided for the primary dwelling to meet the requirements of Chapter 17.10.030 (Site Development and Building Standards) but may be provided as covered spaces, uncovered spaces, tandem spaces, or mechanical parking lifts.

4. 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. No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, or a new structure constructed in the same location and to the same dimensions as an existing structure.
 1. Side and rear setbacks must be sufficient for fire safety.
- d. No additional parking for the accessory dwelling unit shall be required. No new or separate utility connection directly between the accessory dwelling unit and the utility is required.

5. 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 and shall also comply with the height limits for the underlying zoning district. Detached accessory dwelling units shall have a maximum height of 16 feet. Both attached and detached units shall comply with all applicable height and setback standards for the underlying zoning district and any applicable overlay district.
- c. An accessory dwelling unit attached to the existing primary dwelling shall have a minimum floor area of 150 square feet and the maximum floor area shall not exceed 50 percent of the living area of the existing primary

dwelling. A detached accessory dwelling unit shall have a minimum floor area of 150 square feet and maximum floor area of 600 square feet.

- d. A separate utility connection between the accessory dwelling unit and all utilities shall be required.
- e. 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.

6. Accessory dwelling unit, exception:

- a. Purpose: The purpose of this section (6) is to harmonize the provisions of the ADU statute with the goals and policies of the Coastal Act and the city's Local Coastal Program. 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.

The ADUs described in subsection (b) have the potential to conflict with the Goals, Objectives, or Policies of the city's LCP, or Coastal Resources if not properly addressed through appropriate discretionary review.

- b. Applicability: The following ADUs may be approved as an accessory dwelling unit, exemption:

- 1. Any ADU for which the applicant requests deviation from adopted standards described within section 17.08.050.G.
- 2. Any accessory dwelling unit, new structure, which receives a floor bonus/exemption of up to 800 sf above the allowable floor area to allow for the construction of an ADU.

- c. Procedures:

- 1. All applications and/or requests for an accessory dwelling unit, exception, shall be reviewed consistent with all procedures outlined in CMC 17.58.040.B, and shall be subject to the applicable adopted design review guidelines for the primary dwelling.

- a. Findings required: Before approving an application for an accessory dwelling unit exemption, the appropriate authority shall make the following findings, as applicable:

- i. CMC section 17.58.060

ii. CMC section 17.64.080

d. Limitations. In no instance shall an accessory dwelling unit exceed or conflict with the following:

1. The accessory dwelling unit shall conform to all requirements of any applicable overlay district, and all other applicable provisions of this title, including but not limited to height, setback, landscape, and historic preservation requirements.
2. Exceed 800 square feet above the maximum allowed floor area for the site.
3. The total unit square footage (unit size) shall not exceed eight hundred fifty (850) square feet for studio and 1-bedroom units, or one thousand (1,000) square feet for an accessory dwelling unit that provides more than one bedroom.
4. For an accessory dwelling units located in the front setback, the standards applicable to detached garages and carports described in CMC section 17.10.030.A.1.a shall apply equally.
 - a. No more than one accessory structure shall be located in, or encroached into, the front setback.
5. An attached accessory dwelling unit that exceeds the allowable base floor area for the site shall be constructed as an independent dwelling unit with no interconnectivity, internal circulation, or other means of passage between the primary dwelling and ADU without first existing to the exterior of the structure that is not considered floor area. This provision shall not apply to JADUs which may share circulation into the primary dwelling as described in section (6) of this chapter.

7. Junior accessory dwelling units shall additionally conform with the following:

- a. A JADU shall be a minimum of 150 square feet, not exceed 500 square feet in size and be contained entirely within an existing or proposed single-family residence.
- b. A JADU 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.

- c. A JADU shall have a separate exterior entrance from the single-family dwelling.
- d. 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 so that sanitation facilities can be shared.
- e. 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.
- f. 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.
- g. Parking is not required for JADUs. However, if an existing attached garage is replaced by a JADU, each removed required parking space associated with the primary dwelling space must be replaced with an off-street parking space that complies with the requirements of the underlying zoning district.

G. Accessory Dwelling Units.

Commented [EK1]: General

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

~~4.a.~~ 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.

Commented [EK2]: *Government code section 66314(d)(8)

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

a. The lot must contain an existing ~~or proposed~~ single-family home primary dwelling and no other dwelling units. No more than one accessory dwelling unit (interior, new construction, or exemption) and one junior accessory dwelling unit (JADU) may be constructed on any lot.

Commented [EK3]: Prior ordinance did not consider concurrent construction. "Existing or proposed" aligns with current state law and allows for concurrent development of an ADUs.

b. Except as provided in CMC 17.10.040, Lot Mergers, no more than two accessory structures may be constructed on each building site.

Commented [EK4]: Previously ADUs could only be built with a single-family dwelling. Revising language to "primary dwelling" allows for more flexibility -i.e. an existing duplex in the R-1 district could now build an ADU.

c. 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:

Commented [EK5]: Allows for JADUs. Ordinance previously did not consider JADUs.

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.

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 subsection (G)(2)(b).~~

Commented [EK6]: Owner occupancy requirement no longer enforceable (Gov Code 66315). Revised/re-organized deed restriction requirements.

e.d. Except as modified by this subsection (G), ~~and as may be permitted in section (5),~~ 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.

e.e. 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 required for the accessory dwelling unit unless they are required for the existing single-family home.

e.f. ~~An accessory dwelling unit conforming to the requirements of this section 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.~~

~~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.~~

Commented [EK7]: *Cited from Government Code Section 66319

f.g. ~~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. When a Coastal Development Permit is also 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.

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 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 the City shall consider a coastal development permit applications for ~~an~~ non-exception ADUs 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.

1. Review Authority and Appeals.

- a. Non-exception ADU. Except as provided in subsection (c) of this section, the Director of Community Planning and Building, or their designee, shall act on Coastal Development Permits (CDPs) for interior and new structure accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). If the permit is appealable to the California Coastal Commission, the Director's decision is final and appeals shall be made directly to the Coastal Commission. If the permit is not appealable, the Director's decision is final and not subject to further appeal.
- b. Exemption ADUs. The Director of Community Planning and Building, or their designee, may act on Coastal Development Permits (CDPs) for exemption ADUs, or may be designated to another appropriate authority as provided in subsection (5). Accessory Dwelling Unit exception. The standard City appeal procedures shall apply to all Exemption ADU applications.
- c. Concurrent Review. When an ADU or JADU is proposed with a CDP or other entitlement for a primary dwelling, the permit shall be reviewed by the same authority responsible for the primary dwelling. If the Director is not the final decision-

Commented [EK8]: Clarifies timeline. A building permit shall be approved within the time periods specified in the state statute (60 days of a complete application). However, clarifies that a complete application is reliant on a Coastal Development Permit, when needed.

Commented [EK9]: Exemption ADUs require a public hearing, as described in section 5, below.

maker under subsection (a), standard City appeal procedures shall also apply to the ADU or JADU, as applicable.

h. Parking.

1. No additional parking is required for any accessory dwelling unit or junior accessory dwelling unless the subject site maintains a street frontage on, or to the west of, Carmelo Street or North San Antonio Avenue. For sites where parking is required, one additional parking space shall be provided per accessory dwelling unit, which may either be provided as tandem parking on an existing or proposed driveway, or may provided elsewhere on site as described in CMC section 17.10.030.F.

a. 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.

2. If the accessory dwelling unit replaces an existing garage, carport, or covered parking structure, and the site is located on, or to the west of, Carmelo Street or North San Antonio Avenue, as described in subsection (g)(1) of this chapter, replacement spaces must be provided for the primary dwelling to meet the requirements of Chapter 17.38 CMC (Off-Street Parking Requirements) 17.10.030 (Site Development and Building Standards) 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 three feet and rear yard setback of five feet.

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. No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory

Commented [EK10]: From ADU statute: "...No additional parking is required if located within ½ mile of a public transit stop..." this is basically the whole city.

The new provision waives all parking requirements to simplify process but ensures coastal access is maintained (CMC section 17.20.180.A):

Development may not interfere with public rights of access to the sea where the rights were acquired through use or legislative authorization. Public access rights may include but are not limited to the use of dry sand and rocky beaches to the first line of terrestrial vegetation. Development shall not interfere with the public's right of access to the sea by eliminating free public beach parking along Scenic Road, the Del Mar parking lot, and San Antonio from 2nd Avenue to Santa Lucia Avenue, or any street rights-of-way west of San Antonio.

This requires parking to be provided on-site so free public beach parking is not eliminated.

Commented [EK11]: Requires one parking space per ADU; not parking required for JADUs.

Commented [EK12]: Considering the provision above, where would someone park if an ADU were developed?

Commented [EK13]: Incorrect citation

dwelling unit or to a portion of an accessory dwelling unit, or a new structure constructed in the same location and to the same dimensions as an existing structure.

Commented [EK15]: Gov. Code Section 66314(d)(7)

~~c.1.~~ Side and rear setbacks must be sufficient for fire safety.

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

~~c.~~ 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:

Commented [EK17]: Type 2 - requires approval of a Track 1 Major Design Study and a Administrative Coastal Development Permit.

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 and shall also comply with the height limits for the underlying zoning district. Detached accessory dwelling units shall have a maximum height of 12-16 feet, and Both attached and detached units shall comply with all applicable height and setback standards for the underlying zoning district and any applicable overlay district.

Commented [EK18]: If an existing primary dwelling is 18-feet tall, the ADU is limited to 18-feet tall; it cannot be 24-feet tall.

If an existing primary dwelling is 30-feet tall, the ADU is limited to 24 feet tall; new construction must comply with the underlying zoning.

Commented [EK19]: Raises height limit to be consistent with government code section 66321(b)(4)(A).

Commented [EK20]: Depending on where and how the ADU is cited, the height may need to be lowered or moved to comply with a setback for consistency with the LCP - Gov. Code 66329.

Commented [EK21]: Height limits for ridge and plate height as applicable based on zoning/overlay/building location within site.

Commented [EK22]: *Government Code section 66314(d)(4)

c. An accessory dwelling unit attached to the existing single-family home primary dwelling shall have a minimum floor area of 150 square feet and the maximum floor area shall not exceed 50 percent of the living area of the existing single-family home primary dwelling. 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.

Commented [EK23]: Parking requirements re-located to "General Section" above. Waived for all ADUs except near coastal access areas.

~~e.a.~~ If the accessory dwelling unit replaces an existing garage, carport, or covered parking structure, replacement spaces must be provided to meet

~~the requirements of Chapter 17.58 CMC (Off-Street Parking Requirements) 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 three feet and rear yard setback of five feet.~~

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

~~g.e.~~ 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.

5. Accessory dwelling unit, exception:

a. Purpose: The purpose of this section (5) is to harmonize the provisions of the ADU statute with the goals and policies of the Coastal Act and the city's Local Coastal Program. 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.

The ADUs described in subsection (b) have the potential to conflict with the Goals, Objectives, or Policies of the city's LCP, or Coastal Resources if not properly addressed through appropriate discretionary review.

b. Applicability: The following ADUs may be approved as an accessory dwelling unit, exemption:

1. Any ADU for which the applicant requests deviation from adopted standards described within section 17.08.050.G.

2. Any accessory dwelling unit, new structure, which receives a floor bonus/exemption of up to 800 sf above the allowable floor area to allow for the construction of an ADU.

c. Procedures:

1. All applications and/or requests for an accessory dwelling unit, exception, shall be reviewed consistent with all procedures outlined in CMC 17.58.040.B, and shall be subject to the applicable adopted design review guidelines for the primary dwelling.

Commented [EK24]: Type 3 ADU - requires approval of a Design Study (Track 1 or 2, as appropriate) and a public hearing for the Coastal Development Permit, if required.

Commented [EK25]: ADU ordinance.

Commented [EK26]: Any ADU which exceeds base floor area, up to 800, square feet.

Commented [EK27]: Design Study - Track 1 or Track 2

a. Findings required: Before approving an application for an accessory dwelling unit exemption, the appropriate authority shall make the following findings, as applicable:

i. CMC section 17.58.060

ii. CMC section 17.64.080

d. Limitations. In no instance shall an accessory dwelling unit exceed or conflict with the following:

1. The accessory dwelling unit shall conform to all requirements of any applicable overlay district, and all other applicable provisions of this title, including but not limited to height, setback, landscape, and historic preservation requirements.
2. Exceed 800 square feet above the maximum allowed floor area for the site.
3. The total unit square footage (unit size) shall not exceed eight hundred fifty (850) square feet for studio and 1-bedroom units, or one thousand (1,000) square feet for an accessory dwelling unit that provides more than one bedroom.
4. For an accessory dwelling units located in the front setback, the standards applicable to detached garages and carports described in CMC section 17.10.030.A.1.a shall apply equally.

a. No more than one accessory structure shall be located in, or encroached into, the front setback.

5. An attached accessory dwelling unit that exceeds the allowable base floor area for the site shall be constructed as an independent dwelling unit with no interconnectivity, internal circulation, or other means of passage between the primary dwelling and ADU without first existing to the exterior of the structure that is not considered floor area. This provision shall not apply to JADUs which may share circulation into the primary dwelling as described in section (6) of this chapter.

6. Junior accessory dwelling units shall additionally conform with the following:

Commented [EK28]: JADUs added.

- a. A JADU shall be a minimum of 150 square feet, not exceed 500 square feet in size and be contained entirely within an existing or proposed single-family residence.
- b. A JADU 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.
- c. A JADU shall have a separate exterior entrance from the single-family dwelling.
- d. 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 so that sanitation facilities can be shared.
- e. 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.
- f. 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.

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

DRAFT



**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.

DRAFT – DRAFT –75% version; for Planning Commission Workshop on November 13, 2024 – edits as of November 7, 2024

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,

DRAFT – DRAFT –75% version; for Planning Commission Workshop on November 13, 2024 – edits as of November 7, 2024

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

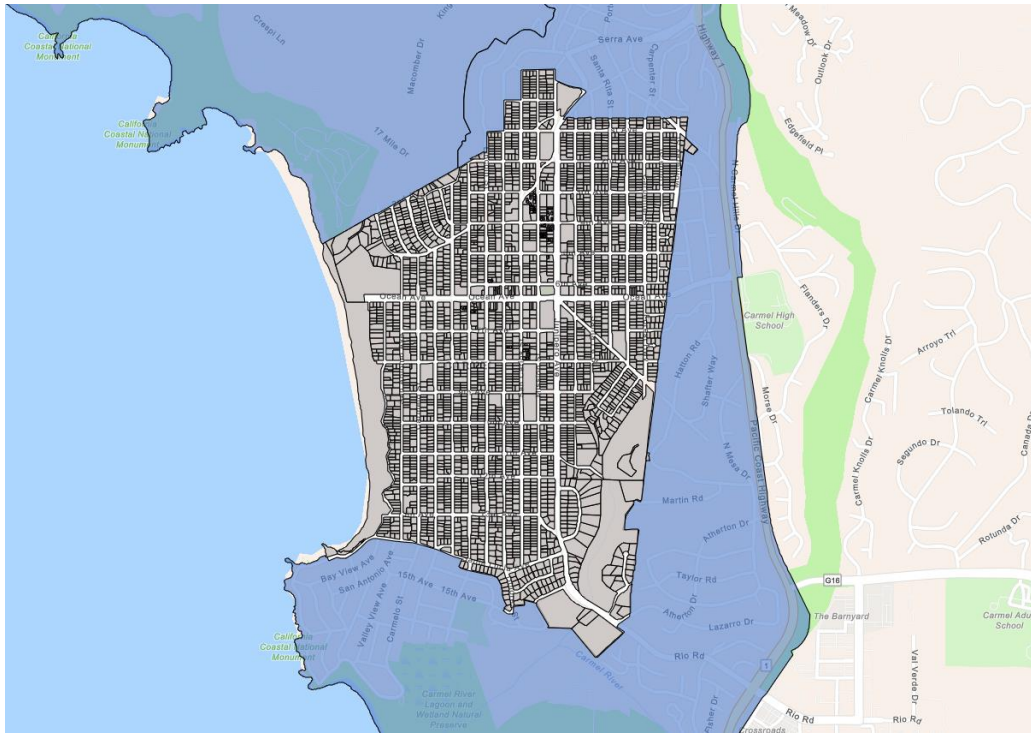


Figure 2. Coastal Zone Boundary (transparent **BLUE** area) bounding the entirety of the city limits of the City of Carmel-by-the-Sea (**GRAY** parcel map showing extent of city limits).

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):

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. (l)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:

***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

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

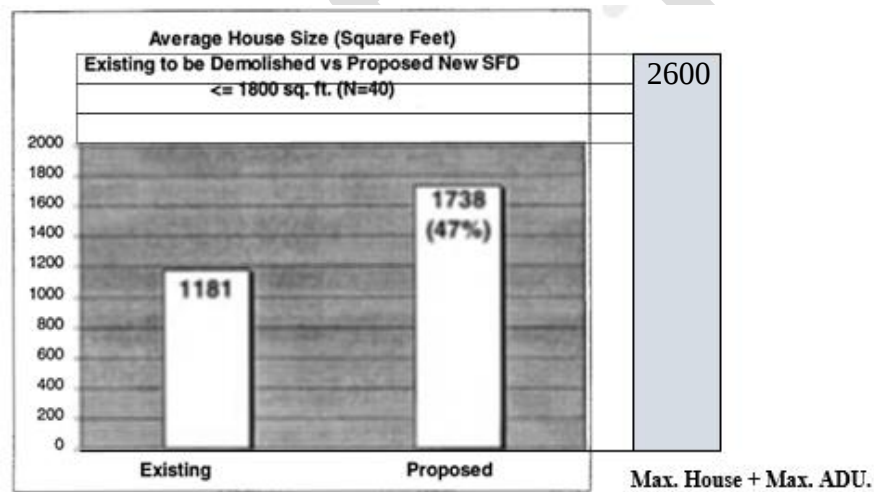


Figure 3. “Carmel, Changes in House Size.” Original figure from November 21, 2002 Coastal Commission staff report. Modified to include 800 square foot ADU in addition to 1,800 square foot primary dwelling (note: 1,800 sf is the max. base floor area allowed on a 4,000 square foot lot -typical lot size).

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).

- 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.

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.

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 incensing 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)



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):
 - 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 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.

- 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 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).

- 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.

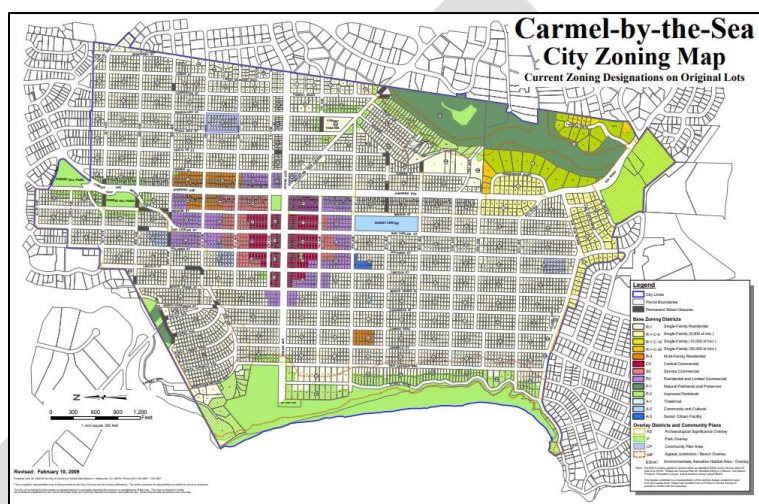


FIGURE 1. Coastal Access Parking Area [Map forthcoming].

- 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 primarily 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.

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

Commented [EK8]: Response to HCD Comment #12

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.

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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 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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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.

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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 sited 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.

- 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.

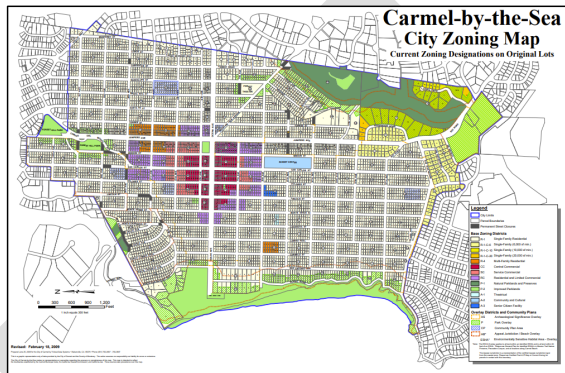


FIGURE 1. Coastal Access Parking Area [Map forthcoming].

- 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.

- 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.040-020 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.

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.03040.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 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

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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 17.10.039040.A.

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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.079080.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.059060.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-use 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.079080.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 17.10.039040.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.

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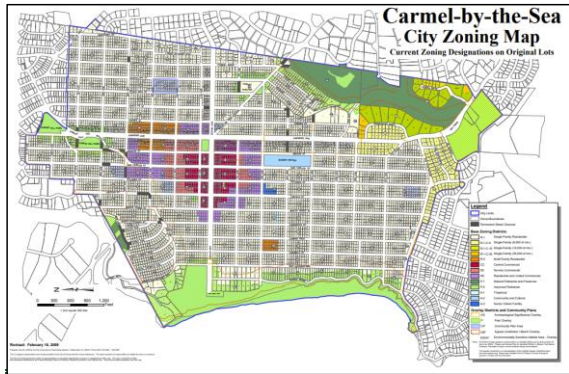
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~~a. Unless specified in the Community Plan, Community Plan Districts shall comply with the provisions of CMC 17.38.~~



~~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.

~~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.

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Relocate to Building Code

- 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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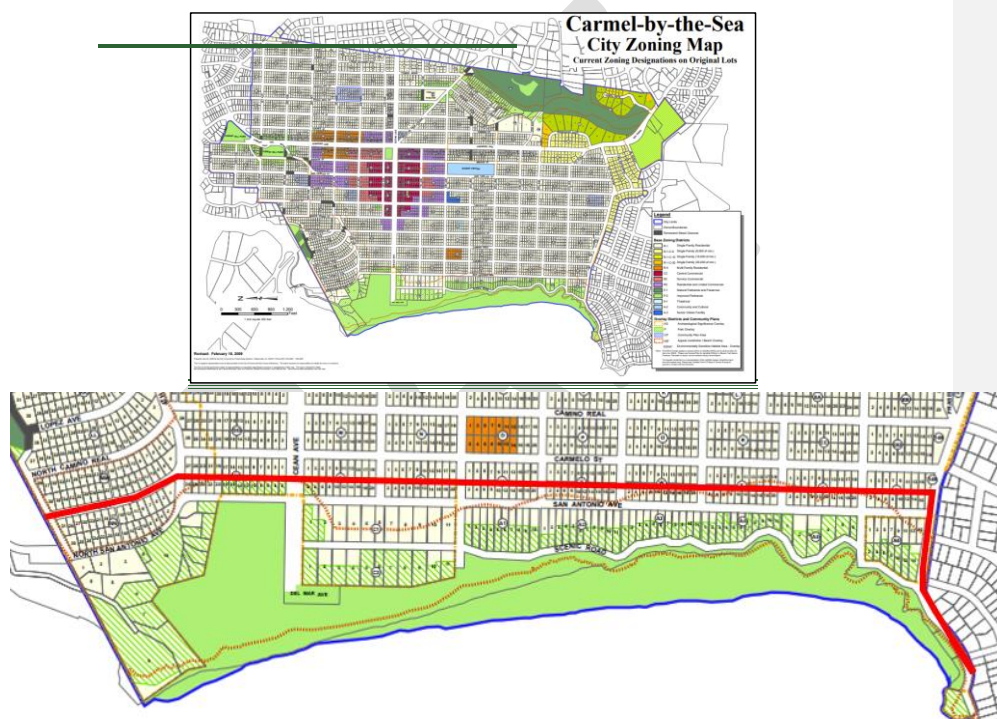


FIGURE 1. Coastal Access Parking Area ~~[Map forthcoming]~~

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 a with 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 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. ~~089100~~ 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.~~

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~~, 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.~~

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~~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.~~

~~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:

- 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.

- 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

- ~~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.~~

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~~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.~~

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~~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 application A 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

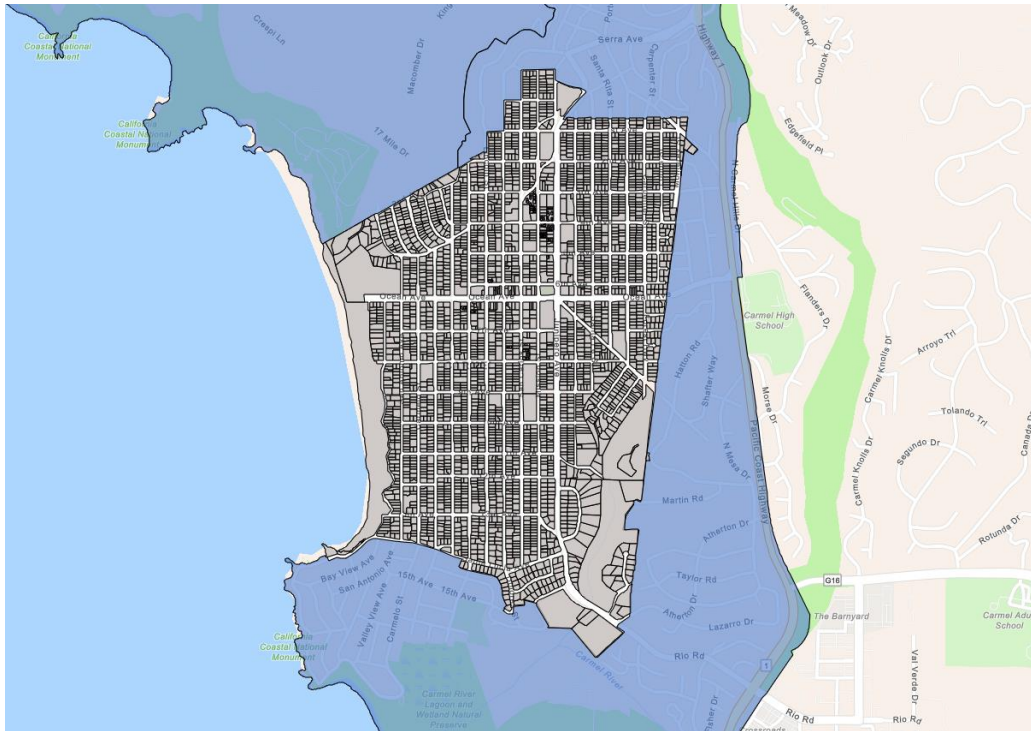


Figure 2. Coastal Zone Boundary (transparent **BLUE** area) bounding the entirety of the city limits of the City of Carmel-by-the-Sea (**GRAY** parcel map showing extent of city limits).

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)

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:

***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

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

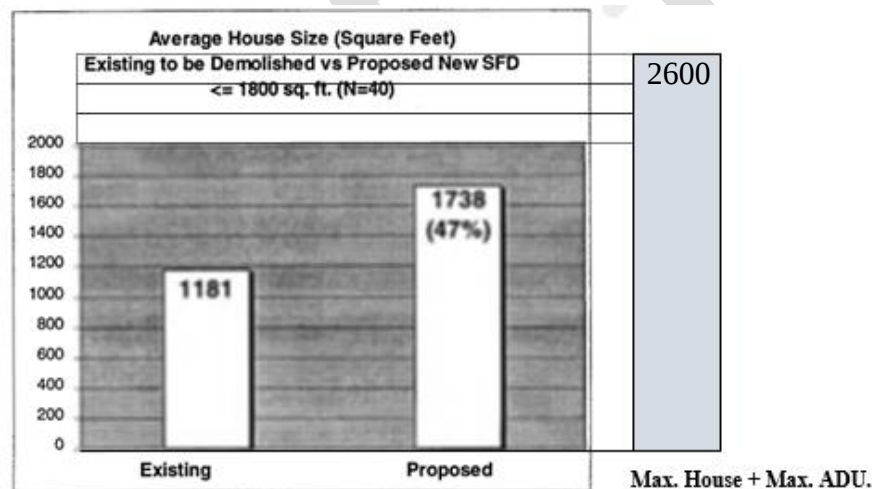


Figure 3. “Carmel, Changes in House Size.” Original figure from November 21, 2002 Coastal Commission staff report. Modified to include 800 square foot ADU in addition to 1,800 square foot primary dwelling (note: 1,800 sf is the max. base floor area allowed on a 4,000 square foot lot -typical lot size).

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.

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.

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 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

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 incensing 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 statue 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 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, 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.

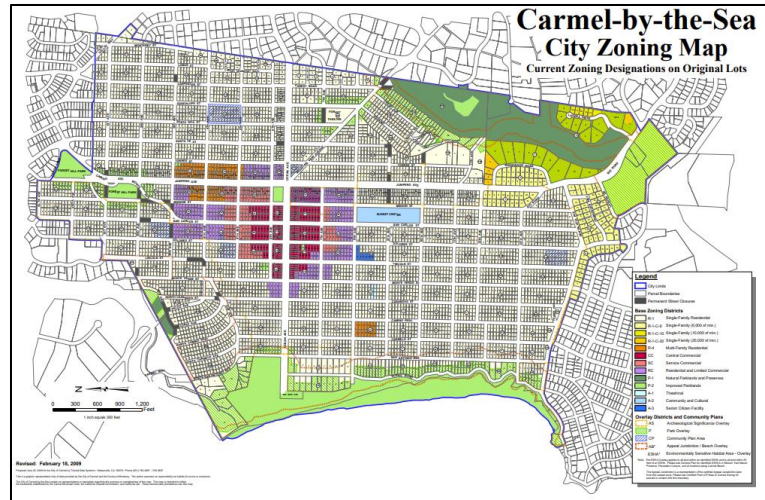


FIGURE 1. Coastal Access Parking Area [Map forthcoming].

- 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

COMMUNITY PLANNING AND BUILDING DEPARTMENT

Errata Memorandum September 25, 2025

To: Planning Commission
From: Evan Kort, Senior Planner
Subject: ADU Ordinance Workshop #3

Chair LePage and Commissioners,

Enclosed is a report of 79 ADU permits approved between 2017 and 2025, and also includes 1 denial. 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 accessably and able to be individually vetted in order to prepare the enclosed report.

This list includes a total 80 ADU applications. A breakdown by year is provided below and includes the type of unit, and which type of review the unit would fall into based on the 3-review types described in the proposed draft ordinance.

Unit Type	2017	2018	2019	2020	2021	2022	2023	2024	2025	Total
Attached	2		1	2	4	4	5	6	2	26
Conversion	4	2	2	3	2	4	4	5	2	28
Detached	2			4	2	5	6	5	2	26
Total	8	2	3	9	8	13	15	16	6	80

"Potential Review Track"	2017	2018	2019	2020	2021	2022	2023	2024	2025	Total
Denied	1									1
Type 1	3		2	1		2	2	5	1	16
Type 2	3	1		7	6	4	3		3	27
Type 3	1	1	1	1	2	7	10	11	2	36
Grand Total	8	2	3	9	8	13	15	16	6	80

Units excluded from the enclosed report are those which are still in review (i.e. have not been acted upon), have been withdrawn, and/or those which did not adequately include enough information to be included in the enclosed report.

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 above Allowed Floor Area	% of "Bonus ADU Floor Area" over allowed Floor Area	"Proposed" ADU Type	Notes
1	BP 17-047	See Notes	ADU	Conversion	2/21/2017	2017	441	7000	2730	3200	6%	14%	-	-	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%	-	-	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%	-	-	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%	-	-	Type 2	Garage conversion
5	BP 17-138	No	ADU	Conversion	5/10/2017	2017	322	4600	2014	1762	7%	18%	-	-	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%	-	-	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%	-	-	Type 2	Attached Garage/Storage Room Conversion
8	BP 17-297	Yes	ADU	Conversion	9/12/2017	2017	200	6000	2460	2460	3%	8%	-	-	Type 3	ADU located within footprint of proposed addition to SFD.
9	BP 18-563	No	ADU	Conversion	11/28/2018	2018	282	4000	1800	1749	7%	16%	-	-	Type 2	Garage conversion
10	BP 19-027	Yes	ADU	Conversion	11/6/2018	2018	208	6000	2460	2402	3%	9%	-	-	Type 3	Garage conversion proposed with Track 2 DS for addition to Historic SFR.
11	BP 19-096	No	ADU	Conversion	2/21/2019	2019	310	7515	2853	2853	4%	11%	-	-	Type 1	Guest house conversion (over garage)
12	BP 19-646	No	ADU	Conversion	11/6/2019	2019	288	6666	2466	1844	4%	16%	-	-	Type 1	Guest house conversion
13	BP 19-722	See Notes	ADU	Attached	12/18/2019	2019	580	4000	1997	2778	15%	21%	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
14	BP 20-118	No	ADU	Detached	3/16/2020	2020	366	7539	2859	2859	5%	13%	-	-	Type 2	New construction
15	BP 20-181	No	ADU	Conversion	5/11/2020	2020	182	4000	1800	1713	5%	11%	-	-	Type 2	Garage conversion
16	BP 20-200	No	ADU	Detached	5/28/2020	2020	260	4000	1800	1748	7%	15%	-	-	Type 2	New 2nd floor ADU over existing detached garage.
17	BP 20-283	No	ADU	Conversion	7/9/2020	2020	620	4000	1800	1868	16%	33%	-	-	Type 1	(e) interior conversion to ADU; no exterior site alteration (existing site was non-conforming).
18	BP 20-308	Yes	ADU	Detached	7/28/2020	2020	296	9306	3200	3200	3%	9%	-	-	Type 2	New construction
19	BP 20-311	Yes	ADU	Attached	7/30/2020	2020	405	4000	1800	1591	10%	25%	-	-	Type 2	Conversion + addition
20	BP 20-330	No	ADU	Attached	8/12/2020	2020	400	4000	1800	1800	10%	22%	-	-	Type 2	New attached unit
21	BP 20-503	No	ADU	Detached	12/4/2020	2020	430	6000	2460	1995	7%	22%	-	-	Type 2	New detached unit
22	BP 20-515	Yes	ADU	Conversion	12/10/2020	2020	549	7570	2866	2814	7%	20%	-	-	Type 3	Studio Conversion associated with Track 2 project
23	BP 21-022	No	ADU	Attached	1/22/2021	2021	502	38000	6000	2838	1%	18%	-	-	Type 2	Existing subordinate unit remodel and interior expansion within crawl space. (e) living space: 2790; (p) living space: 2838.
24	BP 21-023	No	ADU	Detached	1/22/2021	2021	710	4000	1800	1544	18%	46%	-	-	Type 2	Demo garage and construct new ADU.
25	BP 21-112	No	ADU	Conversion	3/24/2021	2021	298	7185	2776	2528	4%	12%	-	-	Type 2	Partial garage conversion
26	BP 21-147	No	ADU	Conversion	4/12/2021	2021	656	4000	1800	1800	16%	36%	-	-	Type 2	(e) guesthouse conversion to ADU; no exterior site alteration.
27	BP 21-239	No	ADU	Detached	6/3/2021	2021	398	6000	2460	1598	7%	25%	-	-	Type 2	New detached unit
28	BP 21-339	Yes	ADU	Attached	8/2/2021	2021	695	6000	2460	2460	12%	28%	-	-	Type 2	45 square foot addition to converted structure
29	BP 21-422	No	ADU	Attached	10/11/2021	2021	554	12000	3600	3796	5%	15%	196	5%	Type 3	302 square foot ADU addition; 252 square foot conversion of existing studio to ADU.
30	BP 21-425	Yes	ADU	Attached	10/12/2021	2021	331	4000	1800	2027	8%	16%	227	13%	Type 3	50 square foot ADU addition; 281 square foot conversion of existing FAR to ADU.
31	BP 22-008	No	ADU	Detached	1/4/2022	2022	680	4000	1800	1750	17%	39%	-	-	Type 2	New detached unit
32	BP 22-029	No	ADU	Attached	1/14/2022	2022	228	4000	1800	1789	6%	13%	-	-	Type 2	Removed garage to accomodate new attached unit
33	BP 22-045	No	ADU	Detached	1/25/2022	2022	431	6600	2626	1602	7%	27%	-	-	Type 2	New detached unit
34	BP 22-085	No	ADU	Conversion	3/1/2022	2022	450	7000	2730	1741	6%	26%	-	-	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%	-	-	Type 3	Took convered floor from ADU then used addition for SFR. The SFR did not exceed the allowble 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	3%	Type 3	New detached unit
37	BP 22-329	Yes	ADU	Conversion	8/25/2022	2022	1322	6000	2460	3782	22%	35%	-	-	Type 3	Took convered floor from ADU then used addition for SFR. The SFR did not exceed the allowble 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	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%	-	-	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	37%	Type 3	New attached unit
41	BP 22-466	Yes	ADU	Attached	12/6/2022	2022	745	4000	1800	2545	19%	29%	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	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%	-	-	Type 2	New detached unit
44	BP 23-059	Yes	ADU	Detached	2/1/2023	2023	750	4220	1881	2288	18%	33%	407	22%	Type 3	New detached unit
45	BP 23-099	No	ADU	Detached	3/1/2023	2023	800	20000	4600	4417	4%	18%	-	-	Type 2	New detached unit
46	BP 23-119	No	JADU	Conversion	3/20/2023	2023	468	6000	2460	2426	8%	19%	-	-	Type 1	Lower floor conversion
47	BP 23-120	Yes	ADU	Attached	3/20/2023	2023	606	4000	1928	2534	15%	24%	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%	-	-	Type 2	Garage conversion
49	BP 23-304	Yes	ADU	Attached	6/27/2023	2023	423	4000	1800	2223	11%	19%	423	24%	Type 3	New attached unit
50	BP 23-335	Yes	ADU	Detached	7/14/2023	2023	500	6200	2517	2798	8%	18%	281	11%	Type 3	Demolished garage and storage unit and rebult garage and ADU (not in-kind).
51	BP 23-359	Yes	ADU	Conversion	7/26/2023	2023	731	4000	1800	2511	18%	29%	-	-	Type 3	Took convered floor from ADU then used addition for SFR. The SFR did not exceed the allowble 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	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%	-	-	Type 2	
54	BP 23-474	No	ADU	Conversion	10/6/2023	2023	666	8640	3086	3086	8%	22%	-	-	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	28%	Type 3	New attached ADU
56	BP 23-527	Yes	ADU	Attached	11/3/2023	2023	264	4000	1800	1915	7%	14%	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	58%	Type 3	New attached ADU
58	BP 23-594	Yes	ADU	Detached	12/21/2023	2023	391	11225	3495	4778	3%	8%	1283	37%	Type 3	New detached unit
59	BP 24-014	No	ADU	Detached	1/11/2024	2024	389	7180	2774	2561	5%	15%	-	-	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	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%	-	-	Type 1	Conversion of lower level to ADU. Existing floor area was non-conforming; no change to FAR for project.
62	BP 24-251	Yes	ADU	Detached	5/24/2024	2024	422	4000	1800	2222	11%	19%	422	23%	Type 3	
63	BP 24-256	No	ADU	Detached	5/28/2024	2024	688	8000	2960	3225	9%	21%	265	9%	Type 3	
64	BP 24-285	No	ADU	Attached	6/19/2024	2024	783	8045	2969	2696	10%	29%	-	-	Type 3	New Attached
65	BP 24-289	See Notes	ADU	Attached	5/13/2024	2024	536	4000	1800	1944	13%	28%	144	8%	Type 3	Partial conversion + addition. ADU addition proposed following approval of Track 2 DS.
66	BP 24-303	No	ADU	Conversion	6/26/2024	2024	384	6000	2460	2075	6%	19%	-	-	Type 1	Studio conversion
67	BP 24-330	Yes	ADU	Detached	7/17/2024	2024	791	8480	3310	3735	9%	21%	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%	-	-	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%	-	-	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	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	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%	-	-	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	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	25%	Type 3	Attached ADU proposed with Track 2 DS for new SFR.
75	BP 25-016	No	ADU	Detached	1/13/2025	2025	690	3828	1722	1800	18%	38%	78	5%	Type 3	Garage Conversion/Addition
76	BP 25-068	Yes	ADU	Attached	2/18/2025	2025	428	4000	1800	2039	11%	21%	239	13%	Type 3	
77	BP 25-084	No	ADU	Detached	2/27/2025	2025	629	8000	2960	2347	8%	27%	-	-	Type 2	Detached - corrections issued
78	BP 25-104	No	ADU	Attached	3/7/2025	2025	360	6000	2460	2202	6%	16%	-	-	Type 2	Partial conversion + addition
79	BP 25-278	No	ADU	Conversion	6/20/2025	2025	501	4600	2014	1941	11%	26%	-	-	Type 1	Lower floor conversion further expanding into adjacent storage room. Also see BP 17-138. Corrections issued
80	BP 25-287	No	ADU	Conversion	6/27/2025	2025	260	4051	1818	917	6%	28%	-	-	Type 2	Garage Conversion
Average:							492	6406	2391	2453	9%	21%	425	20%		