



CITY OF CARMEL-BY-THE-SEA PLANNING COMMISSION

Erin Allen, Robert Delves, 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 Wednesday, November 15, 2023

MEETING 4:00 PM

THIS MEETING WILL BE HELD VIA TELECONFERENCE AND IN PERSON AT CITY HALL. 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 attend in person, visit the City Council Chambers at City Hall located on Monte Verde Street between Ocean and Seventh Avenues. To view or listen to the meeting remotely, you may access the YouTube Live Stream at:
<https://www.youtube.com/@CityofCarmelbytheSea/streams>, or use the link below to view or listen to the meeting via Zoom teleconference:**

<https://ci-carmel-ca-us.zoom.us/j/89628855030?pwd=9pYVv4P2WVMiOFr51KyaWlovnHz6cm.1>. To attend Zoom via telephone, dial +1 253-205-0468. Meeting ID: 8962 8855 030. Passcode: 982788.

HOW TO OFFER PUBLIC COMMENT: Public comment may be given in person at the meeting, or 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 bswanson@ci.carmel.ca.us. Comments must be received 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

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. Matters not appearing on the agenda will not receive action at this meeting and may be referred to staff. Persons are not required to provide their names, and it is helpful for speakers to state their names so they may be identified in the minutes of the meeting.

ANNOUNCEMENTS

PUBLIC HEARINGS

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

FUTURE AGENDA ITEMS

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

November 15, 2023
PUBLIC HEARINGS

TO: Chair LePage and Planning Commissioners

SUBMITTED BY: Brandon Swanson

APPROVED BY: Brandon Swanson

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

Application: N/A

APN: N/A

Block: N/A

Lot: N/A

Location: Citywide

Applicant: N/A

Property Owner: N/A

Executive Summary:

Recommendation:

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

Background and Project Description:

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

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

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

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

Staff Analysis:

Other Project Components:

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

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

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

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

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

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

17.ADU.020 Applicable Zoning Districts.

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

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

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

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

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

B. Floor Area – Single Family.

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

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

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

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

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

F. Parking – Single Family.

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

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

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

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

A. Location – Multi-Family.

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

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

- i. Up to two (2) ADUs

2. Location on site.

- a. ADUs may be located within the portion of existing multi-family dwelling structures that are not used as livable space including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
 - i. In mixed-use buildings, the non-livable space used to create an ADU or ADUs shall be limited to the residential areas of a mixed-use development, and not the areas used for commercial or other activities. The parking and storage areas for these non-residential uses shall also be excluded from potential ADU development.
- b. ADUs may be detached from an existing or proposed multi-family dwelling structure and all accessory structures including, without limitation, garages and storage areas on the same site

B. Floor Area – Multi-Family.

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

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

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

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

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

17.ADU.050 Junior Accessory Dwelling Units.

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

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

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

17.ADU.060 Design Review.

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

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

17.ADU.070 Accessory Dwelling Units, General.

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

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

- C. Site Requirements. The building site is zoned to allow single-family or multifamily dwelling residential use and lot must contain a proposed or existing single-family dwelling, or existing multifamily dwelling. Notwithstanding any provision of this code to the contrary, an ADU shall be a permitted use in any zone where a single-family or multifamily dwelling is permitted.

1. Prohibited Locations.

- a. The establishment of an ADU or JADU shall not be allowed through any permit or license on any building site where sufficient water to support the ADU or JADU is not available for the site.
- b. The establishment of an ADU or JADU shall not be permitted on any portion of a building site not considered as part of the "buildable area" of a site, as defined in CMC 17.70.020.

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

1. Significant trees shall only be removed in accordance with CMC 17.48.070.B.
2. If trees are permitted by the City to be removed to facilitate the construction of an ADU that would otherwise preclude the development of an ADU replacement trees shall be provided on-site pursuant to CMC 17.48.080, or payment into the city's tree in-lieu fund, as adopted by Resolution by City Council, for each tree removed. Alternative locations may be approved by the city forester, as appropriate.
3. All compaction of soils, construction of building walls, or placement of impermeable surfaces shall be setback a minimum of six feet from all trees.

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

1. Fire sprinklers shall be considered "required for the primary dwelling unit" in any of the following circumstances:
 - a. When fire sprinklers are currently installed in the primary dwelling unit;
 - b. When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an ADU; or
 - c. When fire sprinklers will be installed in an existing primary dwelling unit as the result of an addition to the primary dwelling unit, including an addition for the purpose of establishing an ADU, which addition triggered a requirement for retroactive installation

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

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

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

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

- P. Access.
 - 1. Exterior access. The ADU and/or JADU must have exterior access independent of the main unit.
 - 2. Inter-accessibility. Any accessory dwelling unit that is attached to, or located within, a single family dwelling shall be an independent dwelling unit with no inter-accessibility, interconnectivity, internal circulation, or other means of passage between the primary dwelling and ADU. This provision shall not apply to JADUs which may share circulation into the primary dwelling as described in section 17.ADU.050.C.

- Q. Coastal Access Parking Area. Project sites located within the Coastal access parking area, as illustrated in Figure 1, below, shall be required to provide one (1) on-site parking space per ADU in addition to any required parking to the primary dwelling.
 - 1. Within the R-1 District, parking may be provided as an uncovered tandem space within the front or side yard setback located on the driveway in front of a garage or carport or elsewhere on the property where parking is allowed by the underlying zoning district.
 - a. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be provided ministerially for the ADU and shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC 12.24.020.A-L are otherwise met.
 - 2. Within all districts other than the R-1 District, replacement parking shall follow the standards prescribed in CMC 17.38, off-street parking requirements.
 - a. Unless specified in the Community Plan, Community Plan Districts shall comply with the provisions of CMC 17.38.

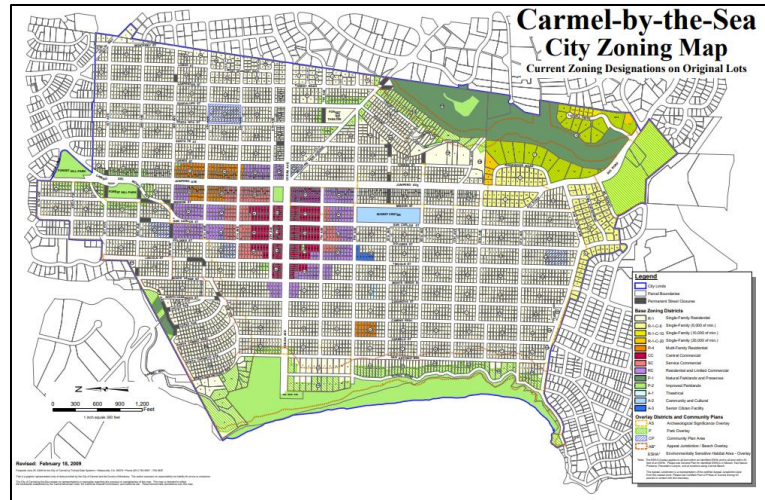


FIGURE 1. Coastal Access Parking Area [Map forthcoming].

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

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

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

U. Subordinate Units

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

V. Non-Conformities.

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

17.ADU.080 Application and Review Procedures.

A. Timing

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

B. Standard of Review

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

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

C. Coastal Development Permits.

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

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

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

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

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

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

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

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

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

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

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

D. Denials.

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

17.ADU.090 Definitions

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

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

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

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

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