



CITY OF CARMEL-BY-THE-SEA

Planning Commission Report

April 24, 2018

To: Chair LePage and Planning Commissioners

From: Marc Wiener, AICP, Community Planning and Building Director

Subject: Discussion on update of the City's Residential Zoning Code (Chapter 17.10) and Residential Design Guidelines and update of the City's Commercial Zoning Code (Chapter 17.14).

RECOMMENDATION:

- 1.) Receive staff report on the proposed Zoning Code and Residential Design Guideline amendments and provide input.
- 2.) Establish the Planning Commission Subcommittee Membership.

BACKGROUND/PROCESS:

On January 9, 2018, the City Council authorized the Community Planning and Building Department to initiate an update of both the Residential Zoning Code and Design Guidelines, as well as the Commercial Zoning Code. On January 31, 2018, the Planning Commission met to initiate the project. Some general zoning issues were discussed at the meeting and staff committed to returning with a more thorough outline of topics that should be evaluated in the coming months. This report provides an outline of the proposed zoning topics with a description of the issues.

The Planning Commission, in conjunction with staff, will take the lead on the Zoning Code and Residential Design Guidelines updates. There will be at least two subcommittees, each consisting of two members of the Planning Commission and one City Staff member. One subcommittee will focus on residential code and guideline amendments while the other will focus on commercial amendments. Additional subcommittees may be appointed as deemed necessary. Staff is requesting that the Planning Commission establish the subcommittees at this meeting. The City Council will review a project outline in June 2018 and will make the final appointment of the subcommittees and will make recommendations on future subcommittee membership, which may include members of the public.

RESIDENTIAL ZONING CODE:

Chapter 17.10 of the Zoning Code regulates building design in the Single-Family Residential (R-1) Zoning District, and includes standards for height, setbacks, floor area, volume, parking, etc. The following is a bullet point list of some of topics that should be evaluated, with a staff analysis:

Volume Standards: The City's Zoning Code includes floor area, height, setback, and exterior volume standards to ensure that designs are human scale and that sites have adequate open space to allow for trees and vegetation. While the exterior volume standards do play a role in minimizing building mass, there are some potential drawbacks. The exterior volume standards depend on the average grade below the residence, and in some cases can heavily penalize a modestly sized residence based on topography of the lot. The volume standards can also have an unintended consequence of encouraging complete demolition and rebuild, in particular when an existing residence does not comply with the volume standards and a new addition does not mesh with the existing building. The volume standards can also limit architectural diversity. For example, Tudor-style designs with a steep roof pitch are heavily penalized by the volume requirements. As a result, many residences have a uniform appearance with moderately pitched roof designs. In staff's opinion, the City's exterior volume standards should be evaluated with the intent of providing more flexibility for existing residences and promote in architectural diversity.

Basement Bonus: Municipal Code Section 17.10.030.D.4 allows bonus floor area for projects that include basements; including 100 square feet of bonus floor, as well an allowance for an additional 2 square feet in a basement for every 1 square foot not constructed above grade. The Code states that "this incentive is to reduce above-ground floor area and reduce exterior volume for sites awarded bonus floor area in basements." Under this program an applicant could potentially construct a 2,400 square-foot residence on a 4,000 square-foot (typical allowed is 1,800 square feet).

Many new residences capitalize on this program by including large basement spaces. One potential issue with this is that it causes properties to be extensively excavated, which can potentially impact on-site trees and increases the scope of construction. This is in direct conflict with Residential Design Guideline 3.2, which states to "minimize the excavation and fill on a site." Staff recommends that the bonus basement program be evaluated to determine if it needs to be curtailed to some extent. One option is to codify development standards that must

be met in order to permit a basement. For example, one potential standard for a basement could be to require a larger setback from significant trees (setback is currently 6 feet).

Property Slope: The allowed floor area of a residence is dependent on the lot size/buildable area. For example, the floor area ratio for a standard 4,000 square-foot lot is 45% of the lot size ($.45 \times 4,000 = 1,800$ square feet). However, Carmel Municipal Code Section 17.06.020.D states that for the purpose of calculating allowable building volume and floor area, the building area of a lot shall be the lot area, minus the “continuous portions of the site, occupying at least 10 percent of the site area, with a slope greater than 30 percent”. The intent of this regulation is to ensure that property owners are not given credit for unbuildable portions of a lot; however, in staff’s experience a 30% slope is buildable. It is also important to note that the Municipal Code is much more lenient when the average slope of the entire property is $\geq 30\%$ as opposed to properties in which only a portion is $\geq 30\%$. When the entire property has a slope of $\geq 30\%$, a use permit must be obtained and floor area is deducted out at a rate of 2% of building area for every 1% incline above 30%. Staff proposes code amendments that would provide more flexibility and consistency in terms of how the City treats sloped properties.

Detached Parking Structures: Municipal Code Section 17.10.030 states that to encourage diversity in neighborhood design, detached parking structures are permitted in the front and side-yard setbacks so long as certain standards can be met. Staff has observed that a large number of designers are proposing detached garages in the 15-foot front-yard setback so that the property can be better utilized for outdoor living space or so that the garage will not need a lengthy driveway that will use up the allowed site coverage.

The front-yard setback is generally intended to be a natural open-space area that is free of site developments such as outdoor patios, fire pits or other structures. Site constraints such as trees or the location of the existing residence, will sometimes dictate that the parking structure be located in the front-yard setback. However, in staff’s opinion the City may be receiving too many proposals for detached parking structures in the front-yard setback, which could have a negative impact on the character of the residential district over time. Staff recommends that the standards for this allowance be evaluated and that the City consider permitting it primarily based on necessity and not convenience.

Parking Standards/Floor Area: Municipal Code Section 17.10.030.D.4 precludes the addition of any floor area to a residence that does not meet the parking standards. This requirement is fairly restrictive and impractical to apply in certain circumstances. For example, a property

owner can be precluded from adding a bay window or very small addition (e.g. 10 sf.) simply because the residence is older and was not built with a garage or because a garage is undersized making it nonconforming. Staff recommends that this section of the Code be amended to raise the square-footage threshold necessary for triggering compliance with the on-site parking requirements.

New Addition Plate Height: The allowed plate height for a one-story building is 12 feet and for a two-story building is 18 feet as measured from the grade (plate height is distance from the grade to the top of the wall). Some older residences were not built to this height standard and have floor levels that are well above grade. New additions to these residences often have to step the floor down in order to meet the plate height requirements, which requires internal stairs. This is feasible on larger-sized additions, but for very small additions such as a single bedroom or bathroom, it is impractical to require stairs leading to this space. Staff recommends that this issue be studied and that an exception to the plate height be granted for small sized additions to existing residences that do not conform to the plate height. This could encourage property owners to retain existing older residences rather than demolishing and rebuilding when faced with this issue.

Trash Enclosures: Municipal Code Section 17.10.030 identifies a list of exceptions to the setback standards. Trash enclosures are not included in this list and therefore are not allowed in the setbacks. In some circumstances, storing trash receptacles on a property behind the 15-foot front-yard setback can be very challenging. Furthermore, the lack of adequate trash storage area can lead to the cans being left out at the front of property. Staff recommends that the code be amended to provide more flexibility in allowing trash enclosures in the front-yard setback subject to certain design standards.

Lighting Standards: Municipal Code Section 15.36.070.B.1 allows exterior light fixtures to be a maximum of 25 watts. The Residential Design Guidelines state to “Preserve the low nighttime lighting character of the residential neighborhood” and “Locate and shield fixtures to avoid glare and excess lighting as seen from neighboring properties and from the street.” The lumen output depends mostly on the type of bulb (e.g. incandescent, fluorescent, LED, etc.) rather than the wattage. Staff recommends that the lighting section of the Code be revised to provide clearer standards on the allowed type of lighting to ensure lower output bulbs are being used and on the fixture to ensure that the lights are screened.

RESIDENTIAL DESIGN GUIDELINES:

The Design Guidelines provide guidance to project applicants in developing proposals that are consistent with the City's design traditions and also "provide a common basis" for decision-making by staff, the Planning Commission and City Council. The following is a bullet point list of some of topics that should be evaluated, with a staff analysis:

Finish Materials: Residential Design Guideline 9.5 encourages the use of natural finish materials. Guideline 9.8 encourages wood roofing and Guideline 9.11 encourages unclad wood windows. Over the past several years the City has wrestled with consistently applying these guidelines. Since the Design Guidelines were adopted, there have been improvements in the aesthetic quality of alternative finish materials, which are designed to appear natural but with better durability. For example, concrete panel shingle siding has been used in the downtown and when painted is nearly indistinguishable from wood. Furthermore, staff has observed that aluminum clad wood windows cannot be distinguished from a painted wood window, even when viewed up close.

With regard to roofing material, the vast majority of property owners are requesting to use composition-shingle roofing based on fire safety and product longevity concerns. After the recent California fires insurance companies are reportedly often not willing to insure wood roofing. Over the past several years the Planning Commission has shown more willingness to approve composition-shingle roofing subject to design standards; including a requirement that the composition shingles have thick edges (presidential shingle) and be an appropriate color. Staff recommends that the Planning Commission study these alternative finish materials and amend the Guidelines to provide more flexibility with the intent of maintaining the existing design aesthetic and character of the Residential District.

Contemporary Architecture: Over the past several years the City has seen a substantial increase in proposals for Contemporary-style residences. Contemporary-style buildings are often characterized by having a flat roof and relatively large windows. The Planning Commission has been accepting of this style of architecture because it represents the current time period and adds to the City's diversity of architecture. One issue is that the Residential Design Guidelines do not adequately address Contemporary architecture. For example, Guideline 8.3 states that "flat roofs may be used to a limited extent on smaller, one-story structures. They should not be used on large buildings or two-story elements." Furthermore, Guideline 9.12 discourages "large picture windows facing the street." In staff's opinion, the Design Guidelines should be modified to provide standards for Contemporary-style architecture. Included in these

standards should be consideration for neighborhood context and appropriate use of finish materials.

Other Amendments: In addition to the aforementioned topics, staff recommends a comprehensive review of the Residential Design Guidelines with the purpose of making some minor revisions and adding clarifying language. For example, with regard to neighbor impacts the Guidelines should be revised to provide a clearer definition of what constitutes an “important” view. Furthermore, the Guidelines should also include some guidance on second-story and rooftop decks. Staff also proposes to update the format of the Residential Design Guidelines, which will include adding new example photographs.

COMMERCIAL ZONING CODE: Chapter 17.14 of the Zoning Code regulates land use and building design in the commercial district. Staff’s intent is to primarily focus on the land use component of the Commercial Zoning Code. The following is a bullet point list of some of topics that should be evaluated, with a staff analysis:

Use Permit Voting: Until as recent as 2017, the City’s use permit voting requirements were not codified. However, the Planning Commission Rules of Procedure stated that a super-majority affirmative vote is required for approval of use permits. In January 2017, at the recommendation of staff and the Planning Commission, the City Council adopted amendments to the Zoning Code that codified the use permit voting requirements. The voting requirements were changed so that only a simple majority is required. The City Council has requested that this issue be studied and is considering reverting back to a super majority vote requirement.

Dwelling Unit Density: The City’s regulations with regard to allowed number of dwelling units on a property is convoluted and needs to be simplified. Furthermore, the affordable housing requirements become fairly restrictive as the number of dwelling units increase, and may have an unintended consequence of discouraging new housing units in the downtown. For example, a proposal for more than 8 dwelling units on a lot of 8,000 square feet would require that the entire project consist of affordable (below market rate) housing. Most developers would rather build less units than trigger this affordable housing requirement. Staff recommends that these regulations be studied and that the City considering raising the threshold of dwelling units necessary for requiring that the entire project consist of affordable housing.

Art Galleries: In 2004, there were over 100 art galleries in the downtown and the City adopted regulations intended to reduce this number. The Zoning Code was amended to require that all new galleries be single artist, meaning that at least 80% of the art for sale be from one primary artist. The regulations also allow multiple artist to be represented in a gallery, so long as there is an on-site studio utilized for art production for over half the hours that the business is open.

There are now 71 art galleries in the City, most of which are multi-artist and are legally permitted but do not conform to the current regulations. Staff finds that the current art gallery regulations are very challenging to enforce. The City does not have the means to consistently inspect whether 80% of a an art gallery's items for sale are from one artist, or for that matter to inspect whether a studio is being utilized for half the hours a business is open. Another issue is that existing multi-artist galleries that have operated in the City for many years cannot relocate within the City because it is against the rules to move their nonconforming operation to a new location. Staff recommends that the City study the art gallery regulations. One option is to eliminate the single-artist regulation and an alternative require a conditional use permit for new art galleries. This would allow the City control the number of galleries and decisions on new permits would be discretionary.

Jewelry Stores: Similar to art galleries, the City has placed significant restrictions on jewelry stores to control the allowed number. The Zoning Code establishes a numerical cap of 32 jewelry stores allowed. The City currently has 28 jewelry stores and has been under the cap for several years. At one time the market was very different, and a jewelry permit was treated as a highly valued commodity by the landlord. Staff recommends that the City study the jewelry store regulations and consider eliminating the cap. As an alternative the City could require a conditional use permit for all new jewelry stores.

Health Spas/Massage: The Zoning Code defines a spa or massage business as being a 'Personal Service' and prohibits such use. The City has historically approved businesses that offer facials, nail and massage services, which are under the umbrella of a spa business. Staff recommends that this section of the Zoning Code be studied and that amendments be made to formally allow spas subject to certain regulations. For example, many jurisdictions in California are requiring that businesses offering massage services must have a certification from the California Massage Therapy Council (CMTC). The CMTC was established by the State Legislature to oversee massage businesses in the state. Businesses with a certification are subject to strict licensing requirements, background checks and can have their certification revoked for violations.

Wine Tasting Policy: The City's current Wine Tasting Policy, which is not part of the Commercial Zoning Code, was adopted in 2015 and establishes a set of guidelines that are used to evaluate proposals for new wine tasting shops. It has been three years since the Policy was adopted, and staff recommends that it be evaluated to determine if any amendments should be made.

Hotel Cap: Municipal Code Section 17.56.020 establishes a cap on hotel units at 948. Staff recommends that the City study this cap. Information on the genesis of the hotel caps, as well as the benefits and drawbacks of potentially amending the cap will be discussed at a later date.

HISTORIC ZONING CODE:

Chapter 17.32 of the Zoning Code addresses historic preservation. It includes criteria for evaluating which properties should be added to the City's Historic Inventory, as well as development standards for modification to existing properties listed on the Historic Inventory. The Historic Resources Board will take the lead on reviewing this Code section, however, the Planning Commission will review this and have input as well.

Downtown Conservation District: The Zoning Code states that the Downtown Conservation District "has one of the highest concentrations of historic buildings in the City. The purpose of the downtown conservation district is to protect the historic resources and the general design context that surrounds them." The boundaries of the Conservation District are very large and should be evaluated. Additionally, the standards for developing in the Conservation District are minimal and simply states an objective that "proposed development is consistent with the established design context of the conservation district and will not adversely affect any historic resources on the project site or on adjacent sites."

Staff intends to study the boundaries of the Conservation District as well as expand on the design standards to ensure that future developments are sensitive to the context of neighboring historic buildings. This component of the project could require amendments to the Commercial Design Guidelines for establishment of design standards in the Downtown Conservation District.

Historic Register: The City has two classes of listing of historic properties, which include the Historic Inventory and Historic Register. All properties deemed historic are placed on the Historic Inventory, but at the property owners request may also be placed on the Historic Register. The Zoning Code implies that properties on the Historic Register have greater historical significance than those on the Historic Inventory; however, this is not explicitly set

forth in the Code. Properties on the Historic Register are eligible for certain benefits including the Mills Act Contract, plaque program (not yet established) and zoning waivers. Staff's recommendation is that the Code be amended to better distinguish the difference between properties on the Historic Inventory and Historic Register.

SUMMARY: This update process will be an opportunity to evaluate the effectiveness of the City's current land-use regulations and determine what, if any, changes should be made. Additional items not listed in this staff report may be identified throughout the review process and will be considered.

Staff anticipates that the entire process will take 9-12 months. According to state law, all amendments to the Zoning Code and Residential Design Guidelines must be consistent with the City's General Plan. The General Plan may have to be amended to be consistent with the new Zoning Code amendments. It is also anticipated that the project will require some level of environmental (CEQA) review.