



**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

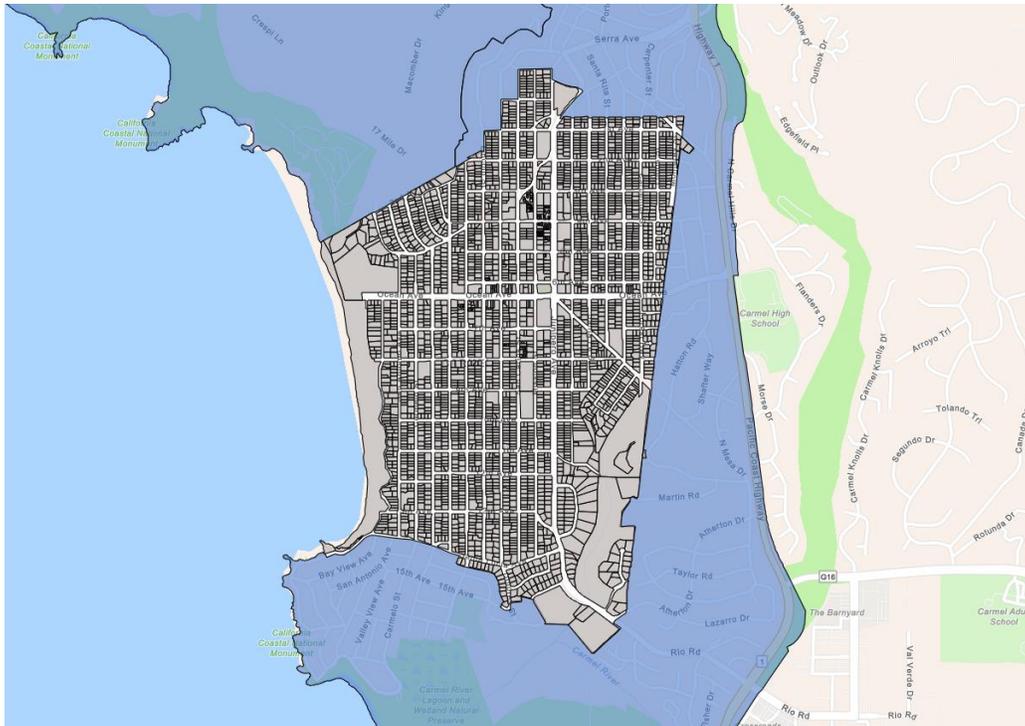


Figure 2. Coastal Zone Boundary (transparent **BLUE** area) bounding the entirety of the city limits of the City of Carmel-by-the-Sea (**GRAY** parcel map showing extent of city limits).

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 were single family and multi-family residences are permitted, as required by the state statute, with no change or limitation to the potential number of total number of potential housing units that could be allowed. The modification proposed to ensure consistency with the Coastal Act would come in the form of the standard of review (ranging from ministerial to discretionary based on a specific criteria) to ensure there are no impacts to coastal resources.

The goal of the proposed ordinance is to provide a clear framework as well as procedural expectations for the project from start to finish for all projects in the city as all projects would all be subject to the same regulatory framework of the Local Coastal Program.

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/exceeds 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

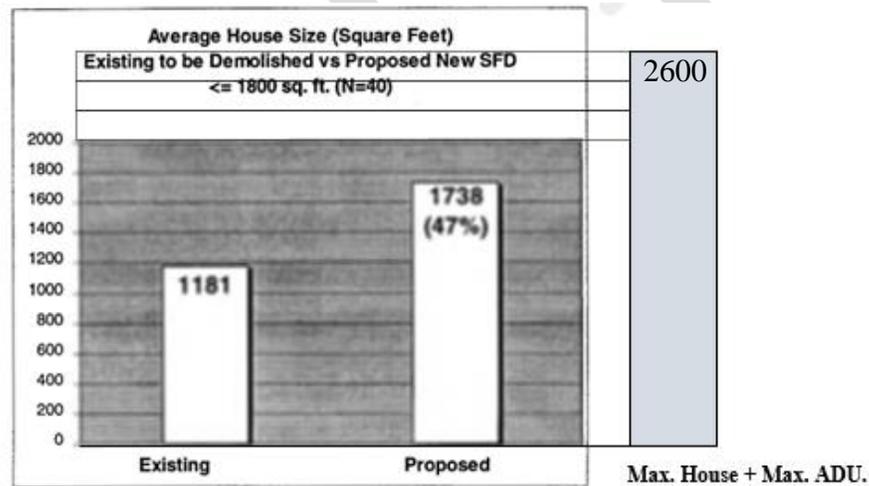


Figure 3. “Carmel, Changes in House Size.” Original figure from November 21, 2002 Coastal Commission staff report. Modified to include 800 square foot ADU in addition to 1,800 square foot primary dwelling (note: 1,800 sf is the max. base floor area allowed on a 4,000 square foot lot -typical lot size).

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.

	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.

Lot Type	Front Setback (in feet)	Rear Setback* (in feet)	Side Setbacks		
			Composite** (both sides)	Minimum Setbacks (in feet)	
				Interior Side	Street Side
Interior Site	15	15	25% of site width	3	N/A
Corner Site	15	15	25% of site width	3	5
Resubdivided Corner Site	10	15	25% of site width	3	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. Polices 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

	<p>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</p> <p>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</p>			
<p>Type 2</p>	<p>1. Attached and detached ADUs which comply with within floor area limits of the site, and/or</p> <p>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</p> <p>3. Units converted from nonhabitable space completely within the enclosing exterior walls of the structure from which</p>	<p>Yes</p>	<p>1. Administrative – Staff Level CDP 2. Building Permit</p>	<p>Objective Design Guidelines</p>

	<p>they are converted, and/or</p> <p>4. Any unit not specifically classified as a Type 3 unit.</p>			
Type 3	<p>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</p> <p>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.</p> <p>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.</p> <p>4. Any ADU for which the applicant requests deviation from adopted applicable standards</p>	Yes	<p>1. Standard CDP; Staff (Admin) or Commission (Standard) depending on scope. Follows city’s standard review process as outlined in current Implementation Plan.</p> <p>2. Building Permit</p>	Residential Design Guidelines

How are ADUs streamlined under the 3-types of permits?

The 3 types of permits allow for streamlining and incenting of the development of ADUs and JADUs while ensuring impacts to Coastal Resources are not impacted. The three “tracks” of ADU review are tiered by the levels of potential impacts to coastal resources. Type 1 would have the lowest impact and Type 3 would have the greatest likely hood of impacting a resource and warrant a higher level of review.

Type 1 projects would generally involve no changes to the existing structure and therefore would not require a CDP (waiver provision is proposed) and therefore would only require a building permit. A waiver

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)