

CALIFORNIA COASTAL COMMISSION

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F18c

A-6-DMR-21-0018 (Ocean Front, LLC)

April 16, 2021

CORRESPONDENCE

April 5, 2021

Hon. Chair Steve Padilla and Commissioners
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

RE: Applicant's Response to Appeal No. A-6-DMR-21-0018

Dear Hon. Chair Padilla and Commissioners:

I represent the homeowners (Ocean Front LLC) located at 2610 Ocean Front, Del Mar, California, 92014 (APN: 299-065-07). I have reviewed the appeal filed by Mark Wyland, via his representative Julie Hamilton, of the City of Del Mar's approval of the Accessory Dwelling Unit (ADU) and the corresponding Administrative Coastal Development Permit (CDP) No. CDP20-016. Additionally, I have reviewed the Coastal Commission Staff Report published March 25, 2020.

On behalf of the owners, we respectfully request that the California Coastal Commission find that the appeal presents no substantial issue concerning the City's approval of the ADU as the application is consistent with the City of Del Mar's Local Coastal Plan (LCP) and the State's legislative mandate to implement additional housing opportunities and alternative transportation.

On February 2, 2021, the City of Del Mar's Director of Planning and Community Development approved CDP20-016. The proposed project is negligible. It consists of converting an approximately 380 square foot attached 2-car garage into an approximately 392 square foot ADU, an increase in height from approximately 11.5-feet to 16-feet to an existing approximately 944 square foot single-story residence located on a 1,753 square foot lot.

Introduction

The appeal before you today is focused exclusively on the matter of parking. Although, in actuality, it is protecting a private white water view, we will assume that it is centered on parking. Accepting this assumption, Coastal Staff has contradicted themselves in the applicable Staff Report. On page 10, Coastal Staff states the following, "*Chapter 30.91.040(P) of the LCP requires one off-street parking space for a new ADU unless one of five listed exemptions apply. Although the City did not make any findings about whether a parking exemption applies for this project, the site is located within one half mile of a bus stop and **thus, the certified LCP does not require parking for the ADU**. Nevertheless, when an ADU is added to a residentially developed site, it typically brings with it additional off-street parking needs; and when existing garages or carports are converted into ADUs, there is a potential to reduce the availability of on-street parking for visitors if the parking for the ADU and primary dwelling unit cannot be made up on-site."*

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The phrase "*Nevertheless*" is one-sided and at best misleading. If the situation were reversed, I would not substantiate the same argument in direct conflict with the LCP as Coastal Staff has reiterated that the basis of review is the City of Del Mar's certified LCP. Staff agrees that "*the certified LCP does not require parking for the ADU.*" The statements "*it typically*" or "*there is a potential*" are assumptions and not based on concrete facts (or at least none were provided/cited by Coastal Staff). As a result, Coastal Staff has inserted their assumptions in what should be a factual analysis.

Coastal Staff's assertion that garage conversions must provide replacement parking is extreme and inappropriate. State law prohibits both replacement parking and new parking requirements for garage conversions. Gov. Code §§65852.2(a)(1)(D)(xi),(d)(3). Coastal Staff's proposal would require replacement parking for a converted two-car garage where state law mandates zero spaces. "*...per the recent state law changes, a local ordinance may not require a minimum lot size, owner occupancy of an ADU, fire sprinklers if such sprinklers are not required in the primary dwelling, or replacement offstreet parking for carports or garages demolished to construct ADUs*" (John Ainsworth, Implementation of New ADU Laws, April 21, 2020)

Further, Coastal Staff has not accounted for public transit availability in their analysis. Indeed, public transit availability impacts the need for parking for ADU residents, even within the Coastal Zone. As a result, Coastal Staff's judgment is inconsistent with state, regional, and local efforts to support alternative transportation modes. As the Commission is aware, local public transit is an effective strategy in reducing greenhouse gas emissions. In direct contrast to this is this appeal's antiquated emphasis on purely maximizing parking.

Outside of the parking debate, "*The creation of new ADUs in existing residential areas is a promising strategy for increasing the supply of lower-cost housing in the coastal zone in a way that may be able to avoid significant adverse impacts on coastal resources*" (John Ainsworth, Implementation of New ADU Laws, April 21, 2020)

It begs the question, what is the true priority of the California Coastal Commission in 2021? Continued support for the traditional automobile or support for additional housing opportunities utilizing alternative transportation modes?

The Concealed Issue

If the subject property were not located in the Appealable Jurisdiction, we would not be here today having this discussion. The simple garage conversion would have been processed ministerially, with no option of appealing the project based on parking. In actuality, we are here today for the reason that the neighbor has a documented history of appealing any proposal for this property due entirely to his private view from the office of his residence. As you are aware, private views are NOT protected, only public views under the Coastal Act. View blockage is a "substantial issue" pertaining to public views, not blockage of private residences' views (Section 30251, Article 6 of Chapter 3 of the Coastal Act).

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Evidence of this is that Mr. Wayland reached out to my clients requesting that the ADU's height be lowered, or else an appeal would be filed. There was no mention of any parking concerns at that time, further establishing that the lack of parking is a convenient scheme.

Refresher on California ADU Regulations

Overview of Legislation

As of January 1, 2020, AB 68, AB 587, AB 670, AB 881, and SB 13 each changed requirements on how local governments can and cannot regulate ADUs and JADUs, to increase statewide availability of smaller, more affordable housing units. Effective January 1, 2020, the new legislation updates existing Government Code Sections 65852.2 and 65852.22 concerning local government procedures for review and approval of ADUs and JADUs. AB 881 (Bloom) made numerous significant changes to Government Code section 65852.2. In their ADU ordinances, local governments may include specific requirements addressing design guidelines and the protection of historic structures. However, per the recent state law changes, a local ordinance may not require a minimum lot size, owner occupancy of an ADU, fire sprinklers if such sprinklers are not required in the primary dwelling, or replacement off-street parking for carports or garages demolished to construct ADUs. In addition, a local government may not establish a maximum size for an ADU of less than 850 square feet or 1,000 square feet if the ADU contains more than one bedroom. (Gov. Code §65852.2(c)(2)(B).) Section 65852.2(a) lists additional mandates for local governments that choose to adopt an ADU ordinance, all of which set the "maximum standards that local agencies shall use to evaluate a proposed [ADU] on a lot that includes a proposed or existing single-family dwelling." (Gov. Code § 65852.2(a)(6).)

What is an ADU? What is a JrADU?

As outlined in California Government Code section 65852.2, an Accessory Dwelling Unit (ADU) is a smaller (detached or attached) secondary dwelling unit with complete, independent living facilities (kitchen and bathroom) that is located on the same parcel as a primary dwelling unit (existing or proposed). The ADU can be located within or attached to a single dwelling unit, within a multiple dwelling unit building, or in a separate detached structure.

As outlined in California Government Code section 65852.22, a Junior ADU (JrADU) is a small dwelling unit (500 square feet maximum in size) that is developed within the walls of a single dwelling unit (existing or proposed). The JrADU must have a separate entrance, efficiency kitchen, and access to a bathroom either within the JrADU or via shared access with the primary dwelling unit. A JrADU is allowed only within the single dwelling unit and is not permitted within an accessory structure or multiple dwelling unit developments.

Specifically, *Section 65852.2 (a) (1)* states that 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:(xi) When a garage, carport, or covered parking structure is demolished in conjunction with constructing an accessory

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dwelling unit or converted to an accessory dwelling unit, the local agency **shall not require that those off-street parking spaces be replaced.**

Do the new ADU laws apply to jurisdictions located in the Coastal Zone?

Yes.

ADU laws apply to jurisdictions in the Coastal Zone but do not necessarily alter or lessen the effect or application of Coastal Act resource protection policies. (Gov. Code, § 65852.22, subd. (l)). This statement specifically calls out "*resource protection policies*." The proposed project **does not "alter or "lessen" any coastal resources**. According to Mr. Ainsworth, "... *LCPs should ensure that new ADUs are not constructed in locations where they would require the construction of shoreline protective devices, in environmentally sensitive habitat areas, wetlands, or in areas where the ADU's structural stability may be compromised by bluff erosion, flooding, or wave uprush over their lifetime.* (John Ainsworth, Implementation of New ADU Laws, April 21, 2020). The preceding examples are clear "coastal resources" worth protecting. None of these examples are at risk by this application.

Local Regulatory Background

City of Del Mar ADU Ordinances: 932 and 966

Ordinance 932 (see attached for reference) was adopted by City Council on October 2, 2017, and certified by the Coastal Commission as an LCP amendment on February 8, 2018. At the time, that Ordinance complied with State law. However, on January 1, 2020, a new State ADU laws package took effect and invalidated certain provisions of the Del Mar Municipal Code related to ADUs. Overall, the new ADU regulations further limit local jurisdictions' ability to impose development standards on new ADUs, expand the circumstances where ADUs may be approved, and further streamline the process to require approval of a complete ADU application within 60 days of submittal. In response to the 2020 state laws, the City Council adopted Ordinance 966 on January 1, 2020 (see attached for reference) and submitted the LCP amendment to the CCC on August 24, 2020 (LCP-6-DMR-20-0044-2). On October 15, 2020, CCC approved a one-year time extension.

City of Del Mar LCP Chapter 30.91.040

Chapter 30.91.040(P) of the LCP states: The ADU shall provide one off-street parking space (covered or uncovered) unless one of the following parking exemptions applies, in which case no parking is required:

1. The ADU would be located within the existing primary dwelling unit.
2. The ADU would be situated in an existing accessory building on the property.
3. The ADU would be found on a property within one-half mile of public transit, including a bus route, train station, or paratransit service, if applicable.

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4. The ADU would be located in an architecturally and historically significant district or on a property listed in the California Register of Historic Places.
5. The ADU would be located on a property within one block of a designated car-share parking location.

Both the 2017 Ordinance 932 and the 2020 Ordinance 966 stipulate when parking can be required for an ADU. The subject property complies with two of the five exemptions listed directly above, **so regardless of which Ordinance Coastal Staff considers, a parking space would not be required.**

Analysis: Chapter 3 of the Coastal Act

The appellant and Coastal Staff claim that the application conflicts with Chapter 3 of the Coastal Act. According to Staff, "*... most coastal visitors are not fortunate enough to live right by the coast, requiring them to drive and park in order to enjoy this public resource.Thus, in order to ensure that public access is not reduced, particularly for coastal visitors who must drive in and find parking in order to access the coast, and to avoid disproportionately impacting inland communities and their rights to coastal access, projects that reduce off-street parking must ensure that they do not lead to a reduction in shoreline and beach area on-street parking."*

Commission Staff is dating themselves by implying that the only means of accessing the public beach is by "driving." First, this is an assumption that is not based upon fact. Second, the local neighborhood, whereby the subject property is located, is served by a highly popular and well-utilized bus line (Bus 101). The 101 Bus has 69 stops departing from UTC Transit Center and ending in Oceanside Transit Center. There are four (4) bus stops along the short stretch of Camino Del Mar to support the local neighborhood (north and south-bound stops located on 24th and 29th). These are facts versus Coastal Staff's assumptions that the only manner in which to access the beach is for individual cars to drive and find public parking.

According to Section 30212.5 of the Coastal Act, "*Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*" It is essential to draw attention to the fact that Section 30212.5 of the Coastal Act is somewhat outdated and, most importantly, unsustainable in today's climate change context. By requiring additional parking for automobiles, the Commission only further substantiates the vicious cycle of supporting greenhouse gas-producing automobiles rather than supporting alternative transportation, such as public buses or rideshare options. Again, a widely used public bus route is less than a mile away (approximately a 3-minute walk) from the subject property. Why is this not a consideration in 2021?

Conclusion

The creation of new ADUs in existing residential areas is a promising strategy for increasing the supply of lower-cost housing in the coastal zone in a way that will avoid significant adverse impacts on coastal resources. **Most notably, the application IS CONSISTENT with the City's**

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certified LCP. For these key reasons, we respectfully request that the Commission find that the City's approval of the project does not support a substantial issue determination on appeal. I appreciate your time and consideration of this matter and will be available for questions at the hearing.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chandra Slaven".

Chandra Slaven, AICP
Coastal Permit Specialist
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Enclosures: City of Del Mar ADU Ordinances: 932 and 966

ORDINANCE NO. 932

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, ADOPTING ZONE CODE AMENDMENT (ZA16-010)/LOCAL COASTAL CODE AMENDMENT (LCPA16-004) BY AMENDING CHAPTERS 30.04 AND 30.10 THROUGH 30.21 AND ADDING CHAPTER 30.91 OF THE DEL MAR MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS; THE REPEAL OF OUTDATED SECOND DWELLING UNIT REGULATIONS; AND ASSOCIATED MISCELLANEOUS AMENDMENTS FOR CONSISTENCY AND CLARIFICATION.

WHEREAS, the State of California passed Senate Bill 1069 and Assembly Bill 2299 relating to Accessory Dwelling Units (ADUs) which amended California Government Code sections 65582.1, 65583.1, 65589.4, 65852.150, 65852.2, 66412.2 and became effective January 1, 2017; and

WHEREAS, the State legislature declared in Government Code section 65852.150 that 1) ADUs are a valuable form of housing, 2) ADUs provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others at below market prices within existing neighborhoods, 3) homeowners who create ADUs benefit from added income and an increased sense of security, 4) allowing ADUs in single-family or multifamily residential zones provides additional rental housing stock, 5) California faces a severe housing crisis, 6) the State is falling far short of meeting current and future housing demand with serious consequences for the State's economy, our ability to build green infill consistent with State greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners, 7) ADUs offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods while respecting architectural character, and 8) ADUs are therefore an essential component of California's housing supply; and

WHEREAS, the change in State law created the need for the City to repeal its Second Dwelling Unit regulations and adopt new ADU regulations in order to provide for ministerial approval consistent with the State law as amended; and

WHEREAS, the State of California passed Assembly Bill 2406 to add section 65852.22 to the California Government Code relating to Junior Accessory Dwelling Units (JrADUs), which took effect immediately on September 28, 2016, thereby authorizing a local agency to adopt an Ordinance to provide a process for approval of JrADUs that provide for independent living entirely within an existing primary dwelling unit; and

WHEREAS, the development of ADUs and JrADUs is one of several options the City of Del Mar can use to achieve its housing goal to create 22 affordable dwelling units in five years and meet the City's regional obligation consistent with the City's adopted Housing Element; and

WHEREAS, the City of Del Mar is seeking approval of a Zone Code Amendment (ZA16-010) and Local Coastal Program Amendment (LCPA16-004), to amend Chapter 30.4 and Chapters 30.10 through 30.21 and add a new Chapter 30.91 to the Del Mar Municipal Code to regulate Accessory Dwelling Units and Junior Accessory Dwelling Units, which constitutes an amendment to the City's Zoning Code and Local Coastal Program; and

WHEREAS, the proposed amendments would establish allowable zones where ADUs and JrADUs would be allowed and identifies the specific criteria that must be complied with for ministerial approval; and

WHEREAS, the City of Del Mar posted, mailed, and distributed a Notice of Availability of the draft amendments for public review prior to July 25, 2017, in accordance with California Code of Regulations Section 13515 requirements for public participation and agency coordination for Local Coastal Program Amendments; and

WHEREAS, as set forth in Section 21080.17 of the Public Resources Code, the proposed regulations are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15282(h), which exempts adoption of an Accessory Dwelling Unit Ordinance applicable in single dwelling unit and multiple dwelling unit residential zones to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code; and

WHEREAS, the provisions in the Ordinance relating to JrADUs, which are located entirely in an existing structure and involve a negligible or no expansion of use, are exempt pursuant to CEQA Guidelines Section 15301 (Existing Facilities); and

WHEREAS, on August 2, 2017, the Del Mar Housing Corporation held a public meeting to consider the draft code amendments and voted 5-0-2 to recommend approval of the ADU and JrADU regulations and voted separately 5-0-2 to recommend approval of an associated pilot program to test floor area as an incentive in exchange for deed restricted affordable ADUs to meet a portion of the City's regional obligation for affordable housing; and

WHEREAS, a noticed public hearing of the Planning Commission was conducted on August 8, 2017, to provide an opportunity for the public to comment on the proposed Zone Code Amendment/Local Coastal Program Amendment and for the Planning Commission to make a recommendation to the City Council; and

WHEREAS, the Planning Commission voted unanimously to recommend approval to the City Council of the proposed Zone Code Amendment (ZA16-010)/Local Coastal Program Amendment (LCPA16-004); and

WHEREAS, the proposed amendments are consistent with the City's Local Coastal Program; and

WHEREAS, the proposed amendments constitute an amendment to the Implementation Plan of the City's certified Local Coastal Program and following City Council action will subject to review and certification by the California Coastal Commission; and

WHEREAS, the amendments to the City's zoning regulations in Chapter 30 of the Del Mar Municipal Code will ensure that the City's local regulations for Accessory Dwelling Units and Junior Accessory Dwelling Units are consistent with State law and that the provisions in this Ordinance relating to matters including unit size, parking, fees, and other requirements are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create ADUs and JrADUs in zones where they are allowed.

NOW THEREFORE, the City Council of the City of Del Mar hereby ordains as follows:

SECTION ONE

That Section 30.04.010 of the Municipal Code be amended as follows:

30.04.010 Definitions "A" Words and Phrases Defined.

A. Access. [No change]

B. Accessory Building. An attached portion of the primary dwelling unit or main building that is devoted exclusively to an accessory use, or a detached subordinate building located on the same lot or premises, which is devoted exclusively to either the primary use of the lot or to an accessory use. An Accessory Building may be constructed as either accessory habitable or non-habitable space and used subordinate to the primary use of the lot. Where an Accessory Building is habitable construction and has a kitchen it has the same meaning as "Accessory Dwelling Unit" or "Junior Accessory Dwelling Unit".

C. Accessory Dwelling Unit. Consistent with the California Government Code, an additional smaller attached or detached dwelling unit that is located on the same property as a Primary Dwelling Unit and that is designed with separate living, sleeping, eating, cooking, and sanitation amenities and that is used or intended to be used as complete independent living facilities for use by one or more persons. Also known as ADU.

D. Accessory Use. A use of land or building, or portion thereof, that is customarily incidental to, related to and clearly subordinate to the primary use of the land or building located upon the same lot or premises.

E. through AB. [No change]

SECTION TWO

That Section 30.04.040 of the Municipal Code be amended as follows:

30.04.040 "D" Words and Phrases Defined.

A. through H. [No change]

I. Duplex. A building or lot occupied by two dwelling units, attached or detached.

J. Dwelling Unit. One or more rooms in a building or portion thereof designed with a kitchen and living, sleeping, and eating areas that are used by or intended to be used and occupied by one or more persons living together with common access to and common use of all areas within the unit.

K. Dwelling Unit, Attached. A dwelling unit attached to another dwelling unit by use of a common wall.

L. Dwelling Unit, Clustered. A dwelling unit that is sited in close proximity to another dwelling unit or dwelling units. In the RM and R-2 Zones, the dwelling units may be attached.

SECTION THREE

That Section 30.04.070 of the Municipal Code be amended as follows:

30.04.070 "G" Words and Phrases Defined.

A. through F. [No change]

G. Guest Room. [No change in text]

SECTION FOUR

That Section 30.04.100 of the Municipal Code be amended as follows:

30.04.100 "J" Words and Phrases Defined.

A. Junior Accessory Dwelling Unit. A small dwelling unit that is no more than 500 square feet in size and contained entirely within, and accessory to, an existing habitable Single Dwelling Unit pursuant to the regulations in Section 30.91.050 and California Government Code section 65852.22. Also known as JrADU.

B. Junk or Salvage Yard. [No change in text]

SECTION FIVE

That Section 30.04.130 of the Municipal Code be amended as follows:

30.04.130 "M" Words and Phrases Defined.

A. through B. [No change]

C. Mezzanine or Mezzanine Floor. [No change in text]

D. Motel or Tourist Court. [No change in text]

E. Motor Vehicle. [No change in text]

F. Multiple Dwelling Unit. A building or lot containing two or more dwelling units on a single lot. The term does not include a Single Dwelling Unit, Accessory Dwelling Unit, or Junior Accessory Dwelling Unit.

SECTION SIX

That Section 30.04.160 of the Municipal Code be amended as follows:

30.04.160 "P" Words and Phrases Defined.

A. through E. [No change.]

F. Primary Dwelling Unit. A dwelling unit that occupies the majority of the area of a lot containing a smaller Accessory Dwelling Unit or Accessory Building that is incidental to, related to, and clearly subordinate to the dwelling unit.

G. Primary Use. The allowed use on a premises that occupies a majority of the area of the premises.

H. Private Road, Private Road Easement. [No change in text]

I. Public Right of Way. [No change in text]

SECTION SEVEN

That Section 30.04.180 of the Municipal Code be amended as follows:

30.04.180 "S" Words and Phrases Defined.

A. Screening. [No change]

Reletter Existing Sections D. (Service Road) through F. (Setback Line) accordingly to B. through D. [No change in text]

E. Sign. [No change in text]

F. Single Dwelling Unit. A dwelling unit located on an individual lot. This term does not include an Accessory Dwelling Unit or Junior Accessory Dwelling Unit.

G. Story. [No change in text]

H. Story, Two or More. [No change in text]

Reletter Existing Sections L. (Street) through R. (Subdivision Map Act) accordingly to I. through O. [No change in text]

Reletter Existing Sections S. (Substantial Construction) through T. (Substantial Slope) to P. through Q. [No change in text]

R. Studio. A dwelling unit that combines kitchen, living, and sleeping rooms into one room; same as a bachelor or efficiency unit.

S. Supportive Housing [No change in text]

SECTION EIGHT

That Section 30.10.030 of the Municipal Code be amended as follows:

30.10.030 Allowable Uses.

The allowable uses in the R1-40 Zone are:

- A. A single dwelling unit on each building site; and
- B. An Accessory Dwelling Unit that meets the requirements in Section 30.91.040, or a Junior Accessory Dwelling Unit that meets the requirements in Section 30.91.050.
- C. A Small Community Care Facility on each building site.

SECTION NINE

That Section 30.10.040 of the Municipal Code be amended as follows:

30.10.040 Accessory Uses.

The following accessory uses may be established in the R1-40 Zone:

A. Accessory buildings and uses customarily incidental to a single dwelling unit. An Accessory Building shall not be rented or otherwise used as a separate dwelling unit, unless an Accessory Dwelling Unit permit is obtained and the unit is operated in compliance with Sections 30.91.040 or 30.91.050.

B. through D. [No change]

E. The renting of not more than one room to not more than one person, or the providing of table board to one person, or both. This limitation shall not apply to an Accessory Dwelling Unit or Junior Accessory Dwelling Unit where a permit has been issued pursuant to Chapter 30.91.

F. Off-street parking for a permitted use.

Reletter Existing Sections H. through L. to Sections G through K. [No change in text]

L. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code section 1596.70.

SECTION TEN

That Section 30.11.030 of the Municipal Code be amended as follows:

30.11.030 Allowable Uses.

The allowable uses in the R1-14 Zone are:

A. A single dwelling unit on each building site; and

B. An Accessory Dwelling Unit that meets the requirements in Section 30.91.040, or a Junior Accessory Dwelling Unit that meets the requirements in Section 30.91.050.

C. A Small Community Care Facility on each building site.

SECTION ELEVEN

That Section 30.11.040 of the Municipal Code be amended as follows:

30.11.040 Accessory Uses.

The following accessory uses may be established in the R1-14 Zone:

A. Accessory buildings and uses customarily incidental to a single dwelling unit, including a private garage or carport to accommodate not more than three vehicles. An Accessory Building shall not be rented or otherwise used as a separate dwelling unit,

unless an Accessory Dwelling Unit permit is obtained and the unit is operated in compliance with Sections 30.91.040 or 30.91.050.

B. The renting of not more than one room to not more than one person, or the providing of table board to one person, or both. This limitation shall not apply to an Accessory Dwelling Unit or Junior Accessory Dwelling Unit where a permit has been issued pursuant to Chapter 30.91.

C. Off-street parking for a permitted use.

Reletter Sections E. through I to Sections D. through H. [No change in text.]

I. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code section 1596.70.

SECTION TWELVE

That Section 30.12.030 of the Municipal Code be amended as follows:

30.12.030 Allowable Uses.

The allowable uses in the R1-10 Zone are:

A. A single dwelling unit on each building site; and

B. An Accessory Dwelling Unit that meets the requirements in Section 30.91.040, or a Junior Accessory Dwelling Unit that meets the requirements in Section 30.91.050.

C. A Small Community Care Facility on each building site.

SECTION THIRTEEN

That Section 30.12.040 of the Municipal Code be amended as follows:

30.12.040 Accessory Uses.

The following accessory uses may be established in the R1-10 Zone:

A. Accessory buildings and uses customarily incidental to a one-family dwelling, including a private garage or carport to accommodate not more than three vehicles. An Accessory Building shall not be rented or otherwise used as a separate dwelling unit, unless an Accessory Dwelling Unit permit is obtained and the unit is operated in compliance with Sections 30.91.040 or 30.91.050.

B. The renting of not more than one room to not more than one person, or the providing of table board to one person, or both. This limitation shall not apply to an Accessory Dwelling Unit or Junior Accessory Dwelling Unit where a permit has been issued pursuant to Chapter 30.91.

C. Off-street parking for a permitted use.

Reletter Existing Sections E. through I. to Sections D. through H. [No change in text.]

I. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code section 1596.70.

SECTION FOURTEEN

That Section 30.13.030 of the Municipal Code be amended as follows:

30.13.030 Allowable Uses.

The allowable uses in the R1-10B Zone are:

A. A single dwelling unit on each building site; and

B. An Accessory Dwelling Unit that meets the requirements in Section 30.91.040, or a Junior Accessory Dwelling Unit that meets the requirements in Section 30.91.050.

C. A Small Community Care Facility on each building site.

SECTION FIFTEEN

That Section 30.13.040 of the Municipal Code be amended as follows:

30.13.040 Accessory Uses.

The following accessory uses may be established in the R1-10B Zone:

A. Accessory buildings and uses customarily incidental to a single dwelling unit, including a private garage or carport to accommodate not more than three vehicles. An Accessory Building shall not be rented or otherwise used as a separate dwelling unit, unless an Accessory Dwelling Unit permit is obtained and the unit is operated in compliance with Sections 30.91.040 or 30.91.050.

B. The renting of not more than one room to not more than one person, or the providing of table board to one person, or both. This limitation shall not apply to an Accessory Dwelling Unit or Junior Accessory Dwelling Unit where a permit has been issued pursuant to Chapter 30.91.

C. Off-street parking for a permitted use.

Reletter Existing Sections E. through I. to be Sections D. through H. [No change in text.]

I. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code section 1596.70.

SECTION SIXTEEN

That Section 30.14.030 of the Municipal Code be amended as follows:

30.14.030 Allowable Uses.

The allowable uses in the R1-5 Zone are:

A. A single dwelling unit on each building site.

B. An Accessory Dwelling Unit that meets the requirements in Section 30.91.040, or a Junior Accessory Dwelling Unit that meets the requirements in Section 30.91.050.

C. [No change in text.]

SECTION SEVENTEEN

That Section 30.14.040 of the Municipal Code be amended as follows:

30.14.040 Accessory Uses.

The following accessory uses may be established in the R1-5 Zone:

A. Accessory buildings and uses customarily incidental to a single dwelling unit, including a private garage or carport to accommodate not more than three vehicles. An Accessory Building shall not be rented or otherwise used as a separate dwelling unit, unless an Accessory Dwelling Unit permit is obtained and the unit is operated in compliance with Sections 30.91.040 or 30.91.050.

B. The renting of not more than one room to not more than one person, or the providing of table board to one person, or both. This limitation shall not apply to an Accessory Dwelling Unit or Junior Accessory Dwelling Unit where a permit has been issued pursuant to Chapter 30.91.

C. Off-street parking for a permitted use.

Reletter Existing Sections E. through I. to be Sections D. through H. [No change in text.]

I. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code section 1596.70.

SECTION EIGHTEEN

That Section 30.15.030 of the Municipal Code be amended as follows:

30.15.030 Allowable Uses.

The allowable uses in the R1-5B Zone are:

- A. A single dwelling unit on each building site.
- B. An Accessory Dwelling Unit that meets the requirements in Section 30.91.040, or a Junior Accessory Dwelling Unit that meets the requirements in Section 30.91.050.
- C. [No change in text.]

SECTION NINETEEN

That Section 30.15.040 of the Municipal Code be amended as follows:

30.15.040 Accessory Uses.

The following accessory uses may be established in the R1-5B Zone:

- A. Accessory buildings and uses customarily incidental to a single dwelling unit, including a private garage or carport to accommodate not more than three vehicles. An Accessory Building shall not be rented or otherwise used as a separate dwelling unit, unless an Accessory Dwelling Unit permit is obtained and the unit is operated in compliance with Sections 30.91.040 or 30.91.050.
- B. The renting of not more than one room to not more than one person, or the providing of table board to one person, or both. This limitation shall not apply to an Accessory Dwelling Unit or Junior Accessory Dwelling Unit where a permit has been issued pursuant to Chapter 30.91.
- C. Off-street parking for a permitted use.

Reletter Existing Sections E. through I. to be Sections D. through H. [No change in text.]

I. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code section 1596.70.

SECTION TWENTY

That Section 30.16.030 of the Municipal Code be amended as follows:

30.16.030 Allowable Uses.

The allowable uses in the RM-East Zone are:

- A. A single dwelling unit on each building site.
- B. An Accessory Dwelling Unit that meets the requirements in Section 30.91.040. A Junior Accessory Dwelling Unit is not permitted.
- C. A duplex with attached dwelling units, or with two unattached dwelling units in instances where design constraints make attachment impractical on each building site having 5,000 square feet or more of lot area.

Reletter Existing Sections C. through D. to be Sections D. and E. [No change in text.]

F. [No change]

SECTION TWENTY ONE

That Section 30.16.040 of the Municipal Code be amended as follows:

30.16.040 Accessory Uses.

- A. Accessory buildings and uses customarily incidental to the allowable uses, including private garages and carports. An Accessory Building shall not be rented or otherwise used as a separate dwelling unit, unless an Accessory Dwelling Unit permit is obtained in compliance with Section 30.91.040.
- B. For each dwelling unit, the renting of not more than one room to not more than one person, or the providing of table board to one person, or both. This limitation shall not apply to an Accessory Dwelling Unit where a permit has been issued pursuant to Chapter 30.91.
- C. Off-street parking for a permitted use.

Reletter Existing Sections E. and F. to be Sections D and E. [No change in text.]

F. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code section 1596.70.

SECTION TWENTY TWO

That Section 30.17.030 of the Municipal Code be amended as follows:

30.17.030 Allowable Uses.

The allowable uses in the RM-West Zone are:

- A. A single dwelling unit on each building site.
- B. An Accessory Dwelling Unit that meets the requirements in Section 30.91.040. A Junior Accessory Dwelling Unit is not permitted.
- C. A duplex with attached dwelling units, or with two unattached dwelling units in instances where design constraints make attachment impractical on each building site having 5,000 square feet or more of lot area.

Reletter Existing Sections C. through D. to be Sections D. and E. [No change in text.]

F. [No change]

SECTION TWENTY THREE

That Section 30.17.040 of the Municipal Code be amended as follows:

30.17.040 Accessory Uses.

- A. Accessory buildings and uses customarily incidental to the allowable uses, including private garages and carports. An Accessory Building shall not be rented or otherwise used as a separate dwelling unit, unless an Accessory Dwelling Unit permit is obtained and the unit is operated in compliance with Section 30.91.040.
- B. For each dwelling unit, the renting of not more than one room to not more than one person, or the providing of table board to one person, or both. This limitation shall not apply to an Accessory Dwelling Unit where a permit has been issued pursuant to Chapter 30.91.
- C. Off-street parking for a permitted use.

Reletter Existing Sections E. through F. to be Sections D. and E. [No change in text.]

F. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code section 1596.70.

SECTION TWENTY FOUR

That Section 30.18.030 of the Municipal Code be amended as follows:

30.18.030 Allowable Uses.

The allowable uses in the RM-Central Zone are:

- A. A single dwelling unit on each building site.
- B. An Accessory Dwelling Unit that meets the requirements in Section 30.91.040. A Junior Accessory Dwelling Unit is not permitted.
- C. A duplex with attached dwelling units, or with two unattached dwelling units in instances where design constraints make attachment impractical on each building site having 5,000 square feet or more of lot area.

Reletter Existing Sections C. through D. to be Sections D. and E. [No change in text.]

F. [No change]

SECTION TWENTY FIVE

That Section 30.18.040 of the Municipal Code be amended as follows:

30.18.040 Accessory Uses.

- A. Accessory buildings and uses customarily incidental to the allowable uses, including private garages and carports. An Accessory Building shall not be rented or otherwise used as a separate dwelling unit, unless an Accessory Dwelling Unit permit is obtained and the unit is operated in compliance with Section 30.91.040.
- B. For each dwelling unit, the renting of not more than one room to not more than one person, or the providing of table board to one person, or both. This limitation shall not apply to an Accessory Dwelling Unit where a permit has been issued pursuant to Chapter 30.91.
- C. Off-street parking for a permitted use.

Reletter Existing Sections E. through F. to be Sections D. through E. [No change in text.]

F. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code section 1596.70.

SECTION TWENTY SIX

That Section 30.19.030 of the Municipal Code be amended as follows:

30.19.030 Allowable Uses.

The allowable uses in the RM-South Zone are:

A. In conformity with density area and other development standards required by the RM-South Zone, and use that is allowed in the RM-East, RM-West or RM-Central Zones, except that Accessory Dwelling Units and Junior Accessory Dwelling Units are not permitted.

B. A duplex with attached dwelling units, or with two unattached dwelling units where design constraints make attachment impractical.

C. Multiple dwelling units

Sections D. through F. [No change in text.]

G. A Small Community Care Facility on each building site.

SECTION TWENTY SEVEN

That Section 30.19.040 of the Municipal Code be amended as follows:

30.19.040 Accessory Uses.

Accessory uses that are lawful in the RM-East, RM-West or RM-Central Zones may be established in the RM-South Zone, except that Accessory Dwelling Units are not permitted.

SECTION TWENTY EIGHT

That Section 30.20.030 of the Municipal Code be amended as follows:

30.20.030 Allowable Uses.

The allowable uses in the R2 Zone are:

A. A single dwelling unit on each building site.

B. An Accessory Dwelling Unit that meets the requirements in Section 30.91.040. A Junior Accessory Dwelling Unit is not permitted.

C. A duplex with attached dwelling units, or with two unattached dwelling units where design constraints make attachment impractical on each building site having 7,000 square feet or more of lot area.

Reletter Existing Sections C. through D. to be Sections D. and E. [No change in text.]

F. [No change]

SECTION TWENTY NINE

That Section 30.20.040 of the Municipal Code be amended as follows:

30.20.040 Accessory Uses.

A. Accessory buildings and uses customarily incidental to the allowable uses, including private garages and carports. An Accessory Building shall not be rented or otherwise used as a separate dwelling unit, unless an Accessory Dwelling Unit permit is obtained and the unit is operated in compliance with Section 30.91.040.

B. For each dwelling unit, the renting of not more than one room to not more than one person, or the providing of table board to one person, or both. This limitation shall not apply to an Accessory Dwelling Unit where a permit has been issued pursuant to Chapter 30.91.

C. Off-street parking for a permitted use.

Reletter Existing Sections E. through F. to be Sections D. and E. [No change in text.]

F. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code section 1596.70.

SECTION THIRTY

That Section 30.21.030 of the Municipal Code be amended as follows:

30.21.030 Allowable Uses.

The following uses are allowable in the RC Zone:

A. Any use allowable in the R2 Zone; provided, however, that at least sixty percent of the floor area, exclusive of parking, shall be for such R2 zoned use. Accessory Dwelling Units are permitted on a lot with an existing single dwelling unit.

B. Any primary use (not requiring a conditional use permit) allowed in the CC Zone; provided, however, that not more than forty percent of the floor area, exclusive of parking, shall be for such CC zoned use.

SECTION THIRTY ONE

That Section 30.21.040 of the Municipal Code be amended as follows:

30.21.040 Accessory Uses.

A. Accessory buildings and uses customarily incidental to the allowable uses, including private garages and carports.

B. Off-street parking for a permitted use.

C. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code section 1596.70.

SECTION THIRTY TWO

That Section 30.75.080 of the Municipal Code be amended as follows:

30.75.080 Coastal Development Permits Issued by the City - Issuing Authority, Public Hearing Required.

A. through D. [No change]

E. The Director of Planning and Community Development shall serve as the Issuing Authority to render a determination on applications for Coastal Development Permits for the following:

1. through 2. [No change]

3. An application for an Accessory Dwelling Unit in accordance with Section 30.91.030(D)(5) that is not otherwise exempt from a Coastal Development Permit.

F. A public hearing shall be required for all Coastal Development Permit applications except that, unless located in the Coastal Commission's appeals area as defined in Section 30.75.030.B.1 of this Chapter, no public hearing shall be required for CDP applications for which the Director of Planning and Community Development is designated as the Issuing Authority.

SECTION THIRTY THREE

That new Chapter 30.91 of the Municipal Code be added as follows:

Chapter 30.91 Accessory Dwelling Units

SECTION THIRTY FOUR

That new Section 30.91.010 of the Municipal Code be added as follows:

30.91.010 Purpose

Accessory Dwelling Units (ADUs) provide independent living facilities that are separate from the primary dwelling unit on the property. Chapter 30.91 is intended to facilitate the development of ADUs and Junior Accessory Dwelling Units (JrADUs) in accordance with California Government Code Sections 65852.150, 65852.2, and 6.5852.22. ADUs and JrADUs are a valuable type of lower cost, long term rental housing stock that can help the City meet its goal to provide a greater range of housing options in residential zones.

SECTION THIRTY FIVE

That new Section 30.91.020 of the Municipal Code be added as follows:

30.91.020 Zones Where Accessory Dwelling Units are Permitted

- A. An Accessory Dwelling Unit (ADU) is permitted subject to the development regulations in Section 30.91.040, only on residential property that is developed with an existing single dwelling unit within one of the following zones:
1. Very Low Density Residential Zone (R1-40)
Modified Low Density Residential Zone (R1-14)
 3. Low Density Residential Zone (R1-10)
 4. Low Density-Beach Residential Zone (R1-10B)
 5. Medium Density Single-Family Residential Zone (R1-5)
 6. Medium Density Single-Family Residential Zone-Beach (R1-5B)
 7. Medium Density Single-Mixed Residential-East (RM-East)

8. Medium Density Mixed Residential-West (RM-West)
 9. Medium Density Mixed Residential-Central (RM-Central)
 10. High Density Mixed Residential (R-2)
 11. Residential-Commercial Zone (RC)
 12. Carmel Valley Precise Plan Specific Plan (CVPP)
- B. A Junior Accessory Dwelling Unit (JrADU) within the walls of an existing single dwelling unit, subject to the development regulations in Section 30.91.050, is permitted on property located within one of the following single dwelling unit zones:
1. Very Low Density Residential Zone (R1-40)
Modified Low Density Residential Zone (R1-14)
 3. Low Density Residential Zone (R1-10)
 4. Low Density-Beach Residential Zone (R1-10B)
 5. Medium Density Single-Family Residential Zone (R1-5)
 6. Medium Density Single-Family Residential Zone-Beach (R1-5B)
 7. Carmel Valley Precise Plan Specific Plan (CVPP)
- C. Development of an ADU or JrADU pursuant to Chapter 30.91 is not considered to exceed the allowable density of the parcel on which it is located.

SECTION THIRTY SIX

That new Section 30.91.030 of the Municipal Code be added as follows:

30.91.030 Process for Approval of an Accessory Dwelling Unit

- A. Within 120 days of submittal of a complete application for an Accessory Dwelling Unit Permit (ADU), administrative approval shall be granted by the Director of Planning and Community Development for an ADU Permit submitted in accordance with the procedure in Section 30.91.030(A)(1) or a Junior Accessory Dwelling Unit (JrADU) request submitted in accordance with Section 30.91.030(A)(2).

1. ADU Submittal Requirements.

In addition to the general application and permit fees for planning and engineering review as applicable, the applicant shall submit the following to demonstrate compliance with Section 30.91.040 to the satisfaction of the Planning and Community Development Director:

- a. A site plan with proposed setbacks fully dimensioned for all existing and proposed structures on the project site, and calculations indicating the square footage of the lot, structure (existing and proposed), and the percentage of lot coverage.
- b. At least four elevations with proposed height fully dimensioned showing all facade openings and exterior finishes.
- c. A floor plan containing an attest or proof of compliance with the floor area ratio requirement for the underlying zone.
- d. Information regarding available water and sewer utility easements, services, and connections and whether the existing primary residence has an automatic residential sprinkler system.
- e. Standard notes printed on the construction plans prior to building permit approval, including the following statement:

The ADU shall not be sold or otherwise conveyed separate from the primary dwelling unit. The property owner shall reside on the property in either the primary dwelling unit or in the ADU. If rented, the term for rental shall be 30 consecutive days or greater (except in the RC zone).
- f. A certification of height, setback, and floor area compliance prior to framing inspection.
- g. A construction-phase parking and equipment/materials storage plan
- h. Any additional information as necessary to demonstrate the proposed ADU is exempt from discretionary review 30.91.030(D).

JrADU Submittal Requirements.

In addition to the general application and permit fee, the applicant for a JrADU shall submit the following to demonstrate compliance with Section 30.91.050 to the satisfaction of the Planning and Community Development Director:

- a. A site plan with setbacks fully dimensioned for all existing structures on the project site to demonstrate the site is developed with a single dwelling unit and that there is no existing ADU on-site.
 - b. A floor plan to demonstrate compliance with Section 30.91.050 requirements for a bedroom, efficiency kitchen, separate exterior entry, interior connection to the primary dwelling unit, and the bathroom the JrADU will have access to.
- B. Upon submittal of a permit application, the applicant and City shall post a courtesy notice of application at the project site and at City Hall for the public to view in accordance with the City's standard development procedure.
- C. Prior to development or occupancy of an ADU or JrADU, the applicant shall obtain all construction-related permits as applicable pursuant to Del Mar Municipal Code Chapter 23.04 (Building Construction General Provisions).
- D. Notwithstanding the provisions of the Del Mar Municipal Code, development of a JrADU designed in accordance with Section 30.91.050 shall be exempt from the requirement to obtain a discretionary permit in all cases. A request for an ADU designed in compliance with Section 30.91.040 shall be exempt from discretionary review as follows:
 1. Exempt from a Design Review Permit (Chapter 23.28) in all zones including the Carmel Valley Precise Plan.

Exempt from a Land Conservation Permit (Chapter 23.33) where proposed grading complies with the following:
 - a. The proposed alteration of the existing grade elevation is 18 inches or less;
 - b. The proposed alteration of the existing grade elevation is temporary and would be replaced with the ADU structure and the grade restored within 18 inches of the original grade elevation;
 - c. Any proposed excavation to fill less than 25 cubic yards; or
 - d. Development of the ADU involves a maximum of 50 cubic yards of combined grading cut and/or fill and a maximum alteration of the existing or natural grade elevation of the property by no more than 36 inches, and no grading occurs during the time period November 15 to March 31.

3. Exempt from a Floodplain Development Permit (Chapter 30.56) where located in the Floodplain Overlay Zone and the following apply:
 - a. ADU will be located entirely within the walls of an existing structure;
or
 - b. ADU will be located in a structure that is designed as follows:
 - i. The lowest floor (including basement) will be elevated at or above the base flood elevation;
 - ii. The structure will be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - iii. Construction materials will be resistant to flood damage; and
 - iv. All plumbing, electrical, heating, ventilation, and air conditioning equipment will be designed to prevent water from entering or accumulating within the components during conditions of flooding.
4. Exempt from a Conditional Use Permit (Chapter 30.74) where:
 - a. Located in the Bluff Slope and Canyon Overlay Zone, and the ADU will be set back at least 20 feet from the top of a steep slope and at least 10 feet from the bottom of a steep slope per Section 30.52.070; or
 - b. Located in the Coastal Bluff Overlay Zone, and the ADU will be constructed primarily above grade, and set back at least 40 feet from the top edge of a coastal bluff per Section 30.55.080.
5. Coastal Development Permit Requirement (Chapter 30.75)
 - a. California Government Code section 65852.2 provides that the Accessory Dwelling Unit statutes do not supersede or in any way alter or lessen the effect or application of the California Coastal Act, except that the City shall not be required to hold public hearings for Coastal Development Permit applications for ADUs.
 - b. The following are exempt from a Coastal Development Permit, except where a permit is otherwise required pursuant to Section 30.91.030(D)(5)(c):

- i. The ADU will be contained entirely within or directly attached to an existing single dwelling unit.
 - ii. Minor changes to an existing residential structure are proposed to construct an ADU consistent with Section 30.91.040 that will not involve the removal or replacement of major structural components (e.g. roofs, exterior walls, or foundations) and will have no potential to adversely impact coastal resources pursuant to the Chapter 3 policies of the Coastal Act.
- c. An administrative Coastal Development Permit in accordance with Section 30.75.080(E) shall be obtained for an ADU where:
- i. A previously issued Coastal Development Permit requires a new Coastal Development Permit or an amendment be processed for any changes to the approved development or for future development or uses of the site as a condition of approval.
 - ii. The ADU will be located between the first public road and the sea or within 300 feet of a beach or the mean high tide line and will increase the interior floor area by 10 percent or more or increase the height by more than 10 percent.
- d. A Coastal Development Permit required by Section 30.91.030(D)(5)(c) shall be processed in accordance with the following procedures:
- i. In order to approve the ADU, the Planning Director shall make a finding that the proposed development is consistent with the requirements of the certified Local Coastal Program, and where applicable, the public access and recreation policies of the Coastal Act, except that no public hearing shall be required.
 - ii. Public notice shall be provided for Coastal Development Permit applications in accordance with Section 30.75.120.
 - iii. Once a final decision of approval or denial is issued by the Planning Director, the notice of final action shall be provided within seven days to the Executive Director of the Coastal Commission and to any interested parties who requested notice in writing in accordance with Section 30.75.100.
 - iv. If the ADU qualifies as appealable development pursuant to Chapter 30.75, the Planning Director's decision to approve a Coastal Development Permit may be appealed to the Coastal

Commission within 10 calendar days in accordance with Section 30.75.110.

- E. No Variances shall be granted for an ADU or a JrADU.
- F. The City shall maintain a record of all ADUs and JrADUs issued permits for reporting to the State of California.

SECTION THIRTY SEVEN

That new Section 30.91.040 of the Municipal Code be added as follows:

30.91.040 Accessory Dwelling Unit Development Regulations

- A. An Accessory Dwelling Unit (ADU) that is designed to meet all of the requirements in Section 30.91.040 shall be issued a permit in accordance with Section 30.91.030.
- B. A maximum of one ADU is permitted per lot that is developed with an existing single dwelling unit in a zone identified in Section 30.91.020. An ADU shall not be permitted on a lot with a JrADU, duplex, three or more dwelling units, or non-residential development.
- C. If the ADU would not be contained within an existing structure, the lot size shall meet the minimum lot size of the zone.
- D. The ADU shall be designed and operated in compliance with the regulations of the zone as a residential use that is subordinate to the primary dwelling unit on the property.
- E. The ADU may be rented, but shall not be sold or conveyed separately from the primary dwelling unit on the property, nor shall authorization be granted for a condominium conversion of an ADU.
- F. The property owner shall reside on the property in either the primary dwelling unit or in the ADU.
- G. If rented, the term for rental of an ADU shall be 30 consecutive days or greater; except that in the RC zone, an ADU may be rented without such a limit.
- H. The interior floor space within the surrounding exterior walls of the ADU (calculated from the inside face of wall studs) shall not exceed 550 square feet in size. For the purpose of this section, all interior floor space of the ADU shall count towards the maximum 550 square feet regardless of whether or not it meets the City's definition of gross floor area.

- I. The applicant shall demonstrate that the area of interior floor space of the ADU (as calculated per Section 30.91.040(H)) when combined with the gross floor area of the existing development does not exceed the maximum floor area ratio for the applicable zone. Any existing floor area that is repurposed for the ADU shall be counted only one time towards the total floor area.
- J. The ADU shall be composed of the same or similar architectural style, details, colors, roof pitch, building materials, and exterior lighting as the primary single dwelling unit on the property.
- K. The ADU shall have a separate exterior entry from the primary dwelling unit.
 - 1. The ADU shall be limited to the first story or basement level unless the ADU would be located within an existing structure with existing access above the first story level.

The ADU entry shall not be required to have a pathway connection to the street.
- L. The maximum building height of any new building construction or expansion of an existing structure for the ADU shall not exceed 14 feet.
- M. All outdoor lighting of an ADU shall be shielded and directed downward and away from neighboring properties and/or public rights-of-way.
- N. The ADU shall comply with the required setbacks of the applicable zone, except that an existing legal non-conforming structure located within the setback, such as a garage or accessory building, may be converted to an ADU and maintain the non-conforming setback, unless a greater setback is needed for compliance with the building and safety standards of the California Building Code and California Fire Code. In all cases, the ADU shall comply with the required coastal bluff setback in the Coastal Bluff Overlay Zone.
- O. Where an existing garage is demolished or converted to an ADU, the replacement off-street parking required for the primary dwelling unit shall be provided on the premises and may be located in the setback, may be covered or uncovered, and may be tandem or accessible by mechanical lift (if the mechanical lift is designed within a garage).
- P. The ADU shall provide one off-street parking space (covered or uncovered), unless one of the following parking exemptions applies in which case no parking is required:
 - 1. The ADU would be located within the existing primary dwelling unit.

The ADU would be located within an existing accessory building on the property.

3. The ADU would be located on a property within a half mile of public transit, including a bus route, train station, or paratransit service, if applicable.
 4. The ADU would be located in an architecturally and historically significant historic district or on a property listed in the California Register of Historic Places.
 5. The ADU would be located on a property within one block of a designated car share parking location.
- Q. ADUs are required to comply with the same building and safety requirements as the primary dwelling unit in accordance with the California Building Code and California Fire Code. Special construction standards that would not otherwise apply to the single dwelling unit as a whole shall not be required.
- R. An automatic residential fire sprinkler system shall not be required for an ADU if the existing primary dwelling unit does not contain such a system.
- S. ADUs shall not be considered new residential uses for the purposes of calculating utility connection fees.
1. State law provides for a new or separate utility connection fee to be required for an ADU that is not contained within the existing primary dwelling unit or within an existing accessory building. The connection fee shall be proportionate to the burden of the ADU based on the ADU size and number of plumbing fixtures.
 2. Conversion of floor space to an ADU within an existing structure with the appropriate meter size shall not be subject to new water and sewer connection fees.
- T. The primary scenic view protections from a primary living area identified under Del Mar Municipal Code Chapter 23.08 shall be limited to space within the primary dwelling unit that meets such definitions and in no case shall apply to an ADU.
- U. An exterior wall heater or air conditioning unit is permitted for an ADU. Any additional accessory mechanical equipment or exterior building features that are

not otherwise required by Section 30.91.040 or for a dwelling unit per the California Building Code shall be subject to Administrative Design Review in accordance with Section 23.08.035, which shall include, but shall not be limited to, the following:

1. Roof eaves or architectural projections that overhang the face of the ADU building wall more than 24 inches

An attached deck, carport, or other outdoor covered area with a finished floor
- V. ADUs shall not be located on a beach, in a wetland, seaward of the mean high tideline, in an environmentally sensitive habitat area, within a required coastal bluff setback, or in an area designated as highly scenic in the certified Local Coastal Program; and shall not involve significant alteration of landforms per Coastal Act section 13250 or the expansion or construction of water wells or septic systems.
- W. Within the Carmel Valley Precise Plan Specific Plan area, ADUs shall be limited to location within an existing residence on one of the following lots: Lots 3-9, 11-17, or 20-29.
- X. The owner of an ADU shall provide information to the City annually upon request for reporting to the State as to whether during the prior 12 months the ADU was rented to a tenant qualifying as low income, rented to a tenant qualifying as moderate income, occupied but not rented, or unoccupied.

SECTION THIRTY EIGHT

That new Section 30.91.050 of the Municipal Code be added as follows:

30.91.050 Junior Accessory Dwelling Unit Development Regulations

A. A Junior Accessory Dwelling Unit (JrADU) is a small dwelling unit that is no more than 500 square feet in size and contained entirely within, and accessory to, an existing habitable Single Dwelling Unit pursuant to the regulations in Section 30.91.050 and California Government Code section 65852.22.

B. A JrADU that is designed to meet all of the requirements in Section 30.91.050 shall be issued a permit in accordance with Section 30.91.030. The City is preempted by State Law from requiring any type of discretionary review or public hearing prior to approval.

C. A maximum of one JrADU is permitted per lot developed with a single dwelling unit and located in a residential zone that allows JrADUs as identified in Section

30.91.020. A JrADU shall not be permitted on a lot with an Accessory Dwelling Unit or multiple dwelling units.

D. A JrADU shall be constructed entirely within the existing walls of a single dwelling unit and shall include the following:

1. An existing bedroom;
2. A separate exterior entry and an interior connection to the primary dwelling unit;
3. An efficiency kitchen with a sink (maximum waste line diameter 1.5 inches), a cooking facility with appliances that do not require electrical service of more than 120 volts, or use natural or propane gas, and a food preparation counter and storage cabinets that are reasonable to the size of the unit; and
4. Access to a bathroom within the JrADU or the primary dwelling unit.

E. The following shall apply to the required separate exterior entry from the primary dwelling unit for a JrADU:

1. The JrADU shall be limited to the first story or basement level unless the required exterior entry access above the first story level is existing.

F. The property owner shall reside on the property in either the primary dwelling unit or in the JrADU, unless the property is owned by a governmental agency, land trust or housing organization.

G. The JrADU may be rented, but shall not be sold or conveyed separately from the primary dwelling unit, nor shall authorization be granted for a condominium conversion of a JrADU. If rented, the term for rental shall be 30 consecutive days or greater; except that in the RC zone, a JrADU may be rented without such a limit.

H. Prior to issuance of a permit for a JrADU on private property, the owner shall record a deed restriction with the County Recorder and file the recorded deed restriction with the City, acknowledging the applicable use limitations that shall run with the land. The deed restriction shall include the following text:

1. The subject property is developed with a Junior Accessory Dwelling Unit (JrADU) contained entirely within the walls of a primary dwelling unit pursuant to Government Code Section 65852.2 and Del Mar Municipal Code Chapter 30.91.
2. This deed restriction identifies use limitations that shall be enforceable against the property owner and all successors in interest.

3. The property owner shall reside on the property in either the primary dwelling unit or in the JrADU.
 4. The JrADU may be rented for periods of 30 consecutive days or greater, but shall not be sold or conveyed separately from the primary dwelling unit.
 5. The JrADU shall be 500 square feet maximum in size.
 6. The JrADU shall provide independent living facilities which shall include a separate exterior entry, an interior connection to the primary dwelling unit, and an efficiency kitchen with a sink (maximum waste line diameter 1.5 inches), a cooking facility with appliances that do not require electrical service of more than 120 volts or use natural or propane gas, and a food preparation and storage cabinets; and access to a bathroom within the JrADU or the primary dwelling unit.
- I. Parking shall not be required for the JrADU.
- J. A JrADU shall not be considered a separate or new dwelling unit for the purpose of any fire or life safety regulation. Fire or life safety requirements that apply to a single dwelling unit may be applied to the structure as a whole inclusive of the JrADU. Special construction standards that would not otherwise apply to the single dwelling unit as a whole shall not be required for the JrADU.
- K. A new automatic residential fire sprinkler system shall not be required for development of a JrADU.
- L. A primary dwelling unit with the appropriate meter size shall not be subject to new water and sewer connection fees for conversion of existing floor space to a JrADU.
- M. The primary scenic view protections from a primary living area identified under Del Mar Municipal Code Chapter 23.08 shall be limited to space within the Primary Dwelling Unit that meets such definitions and in no case shall apply to a JrADU.
- N. The owner of a JrADU shall provide information to the City annually upon request for reporting to the State as to whether during the prior 12 months the JrADU was rented to a tenant qualifying as low income, rented to a tenant qualifying as moderate income, occupied but not rented, or unoccupied.

SECTION THIRTY NINE

The City Council finds that approval of this ordinance is categorically exempt from the preparation of an environmental document pursuant to the California Environmental Quality Act under CEQA Guidelines Article 19, Section 15301. This ordinance in and of

itself will not have a significant impact on the environment because it involves existing facilities with a negligible or no expansion of use. The City Council bases this finding upon the record prepared by the City and the City's analysis of the potential environmental effects of this ordinance.

SECTION FOURTY

This Ordinance was introduced by the City Council on September 18, 2017.

SECTION FOURTY ONE

The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

SECTION FOURTY TWO

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION FOURTY THREE

Upon adoption, the Ordinance will be submitted to the California Coastal Commission for certification as a Local Coastal Program Amendment. The Ordinance will take effect and be in force on the date that the Coastal Commission takes action to unconditionally certify the Local Coastal Program Amendment.

SECTION FOURTY FOUR

Within 60 days of the date of final certification by the California Coastal Commission, the City shall file a copy of the Ordinance with the State of California Department of Housing and Community Development.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council held on the 2nd day of October 2017.

Terry Sinnott, Mayor
City of Del Mar

APPROVED AS TO FORM:

Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, ASHLEY JONES, Administrative Services Director/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No.932, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 2nd day of October, 2017, by the following vote:

AYES: Mayor Sinnott, Deputy Mayor Worden, Council Members Druker,
Haviland, and Parks
NOES: None
ABSENT: None
ABSTAIN: None

Ashley Jones, Administrative Services
Director/City Clerk
City of Del Mar

ORDINANCE NO. 966

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING CHAPTERS 30.19, 30.21, AND 30.91 OF THE CITY OF DEL MAR MUNICIPAL CODE RELATING TO THE REGULATION OF ACCESSORY DWELLING UNITS

WHEREAS, the State of California adopted multiple new laws relating to Accessory Dwelling units (ADUs) and Junior Accessory Dwelling Units (JrADUs) that amended California Government Code section 65852.2 and 65852.22 and took effect on January 1, 2020; and

WHEREAS, State law requires that all local agencies provide a streamlined, ministerial review process for ADUs and JrADUs; and

WHEREAS, the proposed Ordinance is necessary to bring the City's Accessory Dwelling Unit Regulations into compliance with State law generally to address new provisions that further limit the ability for local jurisdictions to impose development standards on new ADUs, expand the circumstances where ADUs and JrADUs may be approved, and further streamlines the process to require approval of a complete application within 60 days of submittal (instead of 120 days); and

WHEREAS, this ordinance is crafted as not to conflict with California Government Code sections 65852.2 and 65852.22; and

WHEREAS, regulation of ADUs also relates to the City's 6th Cycle Housing Element Update (currently in process) because the City will be able to account for ADUs and JrADUs as a housing program strategy to satisfy a portion of the City's assigned Regional Housing Needs Assessment (RHNA) housing needs [Government Code sections 65583.1(a) and 65852.2(m)]; and

WHEREAS, ADUS and JrADUs will likely be a critical piece of the City's overall housing strategy by offering smaller living options on the same premises as a primary dwelling unit, in proximity to services and employers, that can result in multiple benefits to the community as a whole; and

WHEREAS, on March 10, 2020, the Planning Commission recommended approval of the amendments to the City Council; and

WHEREAS, staff from the California Department of Housing and Community Development (HCD) reviewed the draft amendments and provided feedback that necessitated revisions that have since been incorporated; and

WHEREAS, the proposed amendments constitute a Zone Code Amendment and Local Coastal Program Amendment and following City Council action will be subject to review and certification by the Coastal Commission; and

WHEREAS, the City posted, published, and mailed a Notice of Availability of the draft amendments for public review on February 20, 2020, in accordance with California

Code of Regulations Section 13515 requirements for public participation and agency coordination for Local Coastal Program Amendments.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Del Mar, California, does hereby ordain as follows:

SECTION ONE: That DMMC Section 30.19.040 (RM-South Zone) be amended as follows:

30.19.040 Accessory Uses

Accessory uses that are lawful in the RM-East, RM-West or RM-Central Zones may be established in the RM-South Zone, including Accessory Dwelling Units in accordance with Chapter 30.91.

SECTION TWO: That DMMC Section 30.21.030 (RC Zone) be amended as follows:

30.21.030 Allowable Uses

The following uses are allowable in the RC Zone:

- A. Any use allowable in the R2 Zone; provided, however, that at least 60 percent of the floor area, exclusive of parking, shall be for such R2 zoned use.
- B. Any primary use (not requiring a conditional use permit) allowed in the CC Zone; provided, however, that not more than 40 percent of the floor area, exclusive of parking, shall be for such CC zoned use.

SECTION THREE: That DMMC Section 30.21.040 (RC Zone) be amended as follows:

30.21.040 Accessory Uses

- A. Accessory buildings and uses customarily incidental to the allowable uses, including private garages and carports.
- B. Off-street parking for a permitted use.
- C. A licensed Family Child Care Home within an occupied single dwelling unit per California Health and Safety Code Section 1596.70.
- D. Accessory Dwelling Units in accordance with Chapter 30.91.

SECTION FOUR: That DMMC Section 30.91.020 be amended as follows:

30.91.020 Zones Where Accessory Dwelling Units and Junior Accessory Dwelling Units are Permitted

- A. An Accessory Dwelling Unit (ADU) is permitted subject to the development regulations in Sections 30.91.040 and 30.91.060 on any lot that is zoned to allow single dwelling unit or multiple dwelling unit use, including the Carmel Valley Precise Plan and other Specific Plan zones.
- B. A Junior Accessory Dwelling Unit (JrADU) is permitted within the walls of an existing or proposed single dwelling unit, subject to the development regulations in Section 30.91.050, where located on a lot within one of the following single dwelling unit zones:
 - 1. Very Low Density Residential Zone (R1-40)
 - 2. Modified Low Density Residential Zone (R1-14)
 - 3. Low Density Residential Zone (R1-10)
 - 4. Low Density-Beach Residential Zone (R1-10B)
 - 5. Medium Density Single-Family Residential Zone (R1-5)
 - 6. Medium Density Single-Family Residential Zone-Beach (R1-5B)
 - 7. Carmel Valley Precise Plan Specific Plan (CVPP)
- C. Development of an ADU or JrADU pursuant to Chapter 30.91 is not considered to exceed the allowable density of the parcel on which it is located.

SECTION FIVE: That DMMC Section 30.91.030 be amended as follows:

30.91.030 Process for Approval (Accessory Dwelling Units and Junior Accessory Dwelling Units)

- A. Within 60 days of submittal of a complete permit application for an Accessory Dwelling Unit Permit (ADU) or Junior Accessory Dwelling Unit (JrADU), administrative approval shall be granted by the Director of Planning and Community Development for an ADU submitted in accordance with the procedure in Section 30.91.030(A)(1) or JrADU submitted in accordance with Section 30.91.030(A)(2). The application shall be reviewed in a ministerial and administrative manner, limited to only considering the project's compliance with the applicable objective standards stated in Sections 30.91.040, 30.91.050, and 30.91.060 as applicable.
 - 1. ADU Submittal Requirements.

In addition to the general application and permit fees for planning and engineering review as applicable, the applicant shall submit the following as necessary to demonstrate compliance with Section 30.91.040 to the satisfaction of the Planning and Community Development Director:

 - a. A site plan with proposed setbacks fully dimensioned for all existing and proposed structures on the project site, and

calculations indicating the square footage of all structures on the lot (existing and proposed).

- (i) Calculation of the ADU size shall include all interior floor space within the surrounding exterior walls of the ADU as calculated from the inside face of the wall studs.
 - (ii) Additional site plan detail, per the City's ADU checklist on file with the City, shall be included for engineering review of any application to construct an ADU that would be either attached to the primary dwelling unit or constructed as a new detached structure.
 - (iii) Engineering review is not required if the ADU would be located within an existing primary dwelling unit or existing accessory structure.
- b. At least one plan section and elevations with proposed height fully dimensioned showing all facade openings and exterior finishes.
- c. A floor plan to identify the number of bedrooms for the ADU and demonstrate compliance with the requirement for a separate exterior entry.
- d. Information regarding available water and sewer utility easements, services, and connections, and whether the existing primary residence has an automatic residential sprinkler system.
- e. Standard notes printed on the construction plans prior to building permit approval, including the following statement:
- (i) The ADU shall not be sold or otherwise conveyed separate from the primary dwelling unit, except that a qualified non-profit affordable housing organization per Government Code Section 65852.26 may sell a deed restricted ADU to an eligible low-income owner.
 - (ii) The property owner shall reside on the property in either the primary dwelling unit or in the ADU. *[Editor's Note: This provision shall not be enforceable until January 1, 2025.]*
 - (iii) If rented, the term for rental shall be 30 consecutive days or greater (except in zones that allow commercial uses).

- f. A certification of height, setback, and square footage compliance prior to framing inspection.
- g. A construction-phase parking and equipment/materials storage plan
- h. Any additional information as necessary to demonstrate the proposed ADU meets the criteria for approval in Section 30.91.040.

2. JrADU Submittal Requirements.

In addition to the general application and permit fee, the applicant for a JrADU shall submit the following as necessary to demonstrate compliance with Section 30.91.050 to the satisfaction of the Planning and Community Development Director:

- a. A site plan with setbacks fully dimensioned for all existing and proposed structures on the project site to demonstrate the site is, or will be, developed with a single dwelling unit; and that identifies any existing or proposed ADUs on the lot.
- b. A floor plan to demonstrate compliance with Section 30.91.050 requirements for an efficiency kitchen, separate exterior entry, and the bathroom the JrADU will have access to.

3. If the permit application is submitted concurrently with a permit application to create a new primary dwelling unit, the City may delay acting on the ADU or JrADU permit application until the City acts on the permit application to create the new primary dwelling unit. The decision maker on the primary dwelling unit is precluded from considering the pending ADU or JrADU as part of the discretionary review or hearing for the primary dwelling unit. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

B. Prior to development or occupancy of an ADU or JrADU, the applicant shall obtain all construction-related permits as applicable pursuant to Del Mar Municipal Code Chapter 23.04 (Building Construction General Provisions).

C. Notwithstanding the provisions of the Del Mar Municipal Code, development of a JrADU designed in accordance with Section 30.91.050 shall be exempt from the requirement to obtain a discretionary permit in all cases. A request for an ADU designed in compliance with Section 30.91.040 shall be exempt from discretionary review as follows:

1. Exempt from a Design Review Permit (Chapter 23.28) in all zones including the Carmel Valley Precise Plan and Specific Plan zones.
2. Exempt from a Land Conservation Permit (Chapter 23.33) for all grading proposed within the development footprint for the ADU structure; however, the requirement for an excavation or grading permit in accordance with Chapter 23.32 still applies. A Land Conservation Permit may be required via a separate approval process for any excavation and grading that is proposed outside of the development footprint for the ADU structure and that is not otherwise necessary for the ADU to be occupied as a dwelling unit.
3. Exempt from a Floodplain Development Permit (Chapter 30.56) where located in the Floodplain Overlay Zone and the following apply:
 - a. ADU will be located entirely within the walls of an existing habitable structure or within existing non-habitable space located at or above the base flood elevation that is converted to habitable space for the ADU; or
 - b. ADU will be located in a structure that is designed as follows:
 - i. The lowest floor (including basement) will be elevated at or above the base flood elevation;
 - ii. The structure will be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - iii. Construction materials will be resistant to flood damage; and
 - iv. All plumbing, electrical, heating, ventilation, and air conditioning equipment will be designed to prevent water from entering or accumulating within the components during conditions of flooding.
4. Exempt from a Conditional Use Permit (Chapter 30.74) where:
 - a. Located in the Bluff, Slope and Canyon Overlay Zone, and the ADU will be set back at least 20 feet from the top of a steep slope and at least 10 feet from the bottom of a steep slope per Section 30.52.070; or

- b. Located in the Coastal Bluff Overlay Zone, and the ADU will be constructed primarily above grade, and set back at least 40 feet from the top edge of a coastal bluff per Section 30.55.080.

5. Coastal Development Permit Requirement (Chapter 30.75)

- a. California Government Code section 65852.2 provides that the Accessory Dwelling Unit statutes do not supersede or in any way alter or lessen the effect or application of the California Coastal Act, except that the City shall not be required to hold public hearings for Coastal Development Permit applications for ADUs.
- b. The following are exempt from a Coastal Development Permit, except where a permit is otherwise required pursuant to Section 30.91.030(C)(5)(c):
 - i. The ADU will be contained entirely within or directly attached to an existing single dwelling unit.
 - ii. Minor changes to an existing residential structure are proposed to construct an ADU consistent with Section 30.91.040 that will not involve the removal or replacement of major structural components (e.g. roofs, exterior walls, or foundations) and will have no potential to adversely impact coastal resources pursuant to the certified LCP.
- c. An administrative Coastal Development Permit in accordance with Section 30.75.080(E) shall be obtained for an ADU where:
 - i. A previously issued Coastal Development Permit requires a new Coastal Development Permit or an amendment be processed for any changes to the approved development or for future development or uses of the site as a condition of approval.
 - ii. The ADU will be located between the first public road and the sea or within 300 feet of a beach or the mean high tide line and will increase the interior floor area by 10 percent or more or increase the height by more than 10 percent.
- d. A Coastal Development Permit required by Section 30.91.030(C)(5)(c) shall be processed in accordance with the following procedures:
 - i. In order to approve the ADU, the Planning Director shall make a finding that the proposed development is consistent

with the requirements of the certified Local Coastal Program, and where applicable, the public access and recreation policies of the Coastal Act, except that no public hearing shall be required.

- ii. Public notice shall be provided for Coastal Development Permit applications in accordance with Section 30.75.120.
- iii. Once a final decision of approval or denial is issued by the Planning Director, the notice of final action shall be provided within seven days to the Executive Director of the Coastal Commission and to any interested parties who requested notice in writing in accordance with Section 30.75.100.
- iv. If the ADU qualifies as appealable development pursuant to Chapter 30.75, the Planning Director's decision to approve a Coastal Development Permit may be appealed to the Coastal Commission within 10 calendar days in accordance with Section 30.75.110.

- D. The City shall maintain a record of all ADUs and JrADUs issued permits for reporting to the State of California.

SECTION SIX: That DMMC Section 30.91.040 be amended as follows:

30.91.040 Accessory Dwelling Unit Development Regulations (General)

- A. An Accessory Dwelling Unit (ADU) that is designed to meet all of the requirements in Section 30.91.040, and Section 30.91.060 for lots with multiple dwelling units, shall be issued a permit in accordance with Section 30.91.030.
- B. A lot with an existing or proposed single dwelling unit is permitted to develop a combination of attached and detached ADUs on the lot in compliance with the following:
 1. A maximum of one ADU, or one JrADU in compliance with Section 30.91.050, is permitted within a proposed or existing single dwelling unit; and
 2. A maximum of one detached, new construction ADU, or one ADU within the space of an existing detached accessory structure. Conversion of the existing accessory structure can include an addition of up to 150 square feet as necessary to accommodate ingress or egress for the ADU.

3. The ADU or JrADU described under Section 30.91.040(B)(1) shall be located within the primary dwelling unit structure and not within a detached accessory structure.

- C. If the proposed ADU would be located in a designated historic district or on a property that is listed in a Register of Historic Resources (local, state, or national) or where substantial evidence is available indicating that the property contains a potential historic resource that is eligible to be listed, then the applicant must demonstrate that the design of the proposed ADU, including exterior finishes, windows, access doors, and rooflines, is consistent with the Secretary of the Interior Standards for preservation of historic resources.

- D. The ADU shall be designed and operated in compliance with the regulations of the zone as a residential use that is subordinate to the primary dwelling unit on the property.

- E. The ADU may be rented, but shall not be sold or conveyed separately from the primary dwelling unit on the property, except that the City or qualified non-profit corporation per Government Code section 65852.26 may sell a deed restricted ADU to an eligible low-income owner.

- F. The property owner shall reside on the property in either the primary dwelling unit or in the ADU. Owner-occupancy shall not be required if the owner is a governmental agency, land trust, or non-profit housing organization.

[Editor's note: The owner-occupancy provision in DMMC Section 30.91.040(F) shall not be enforceable until January 1, 2025 per Government Code section 65852.2(a)(6).]

- G. If rented, the term for rental of an ADU in a residential zone shall be for a term longer than 30 consecutive days per Government Code sections 65852.2(a)(6) and (e)(4).

- H. The interior floor space within the surrounding exterior walls of the ADU (calculated from the inside face of wall studs) shall not exceed 850 square feet in size, or 1,000 square feet maximum if the ADU has more than one bedroom. The applicant may request City Council approval of a deviation from the stated maximum size limit subject to a finding that the deviation is necessary to create an ADU that will meet the City's Housing Element goals; and the applicant agrees to record a covenant memorializing that the ADU shall be limited to use as an ADU rental unit and agrees to provide the City with ADU rental information annually upon request for reporting to the State. For the purpose of this section:
 1. All interior floor space of the ADU shall count towards the maximum ADU size regardless of whether or not it meets the City's definition of gross floor area.

2. Bedroom shall be defined as an enclosed space within a dwelling unit that is designed or could be used for sleeping and has or is designed to have a door permitting complete closure and separation from all kitchen, living room, and hallway areas.
- I. An ADU is not permitted within a building restricted easement location.
 - J. The ADU shall be composed of the same or similar architectural style, details, colors, roof pitch, building materials, and exterior lighting as the primary dwelling unit on the property.
 - K. The ADU shall have a separate exterior entry from the primary dwelling unit.
 1. The ADU shall be limited to the first story or basement level unless the ADU would be located within an existing structure with existing access above the first story level.
 2. The ADU entry shall not be required to have a pathway connection to the street.
 3. Section 30.86.200(l) "required yards between buildings" shall not apply to proposed ADUs.
 - L. The maximum building height of any new building construction or expansion of an existing structure for the ADU shall not exceed 16 feet, except that a new ADU structure proposed within the Bluff, Slope, and Canyon Overlay Zone shall comply with the 14 foot maximum height limit of the Overlay Zone. For the purpose of Chapter 30.91, height shall be measured in accordance with Section 30.04.080(A), except in the Floodplain Overlay Zone where the height of a new ADU structure shall be measured from the required base flood elevation.
 - M. All outdoor lighting of an ADU shall be shielded and directed downward and away from neighboring properties and/or public rights-of-way.
 - N. A setback of 4 feet shall be required for a new ADU structure, except as follows:
 1. An existing legal non-conforming structure located within the setback, such as a garage or accessory building, may be converted to an ADU and maintain the non-conforming setback, unless a greater setback is needed for compliance with the building and safety standards of the California Building Code and California Fire Code.
 2. The new structure shall comply with the required front yard setback of the applicable zone.

3. In all cases, the ADU shall comply with the required coastal bluff setback in the Coastal Bluff Overlay Zone and the required Beach Preservation Initiative setback in the Beach Overlay Zone.
 4. On properties located between the ocean and the first public roadway, the ADU shall comply with the street yard setback of the applicable zone where necessary to protect public scenic views to the ocean.
- O. Where an existing garage, carport, or covered parking is demolished or converted to an ADU, no replacement off-street parking shall be required.
- P. The ADU shall provide one off-street parking space (covered or uncovered), unless one of the following parking exemptions applies in which case no parking is required:
1. The ADU would be located within the existing primary dwelling unit.
 2. The ADU would be located within an existing accessory building on the property.
 3. The ADU would be located on a property within a half mile of public transit, including a bus route, train station, or paratransit service, if applicable.
 4. The ADU would be located in a designated historic district or on a property listed in a Register of Historic Resources (local, state, or national).
 5. The ADU would be located on a property within one block of a designated car share parking location.
- Q. ADUs are required to comply with the same building and safety requirements as the primary dwelling unit in accordance with the California Building Code and California Fire Code. Special construction standards that would not otherwise apply to the single dwelling unit as a whole shall not be required.
- R. An automatic residential fire sprinkler system shall not be required for an ADU if the existing primary dwelling unit does not contain such a system.
- S. ADUs shall not be considered new residential uses for the purposes of calculating utility connection fees.
1. State law provides for a new or separate utility connection fee to be required for an ADU that is not contained within the existing primary dwelling unit or within an existing accessory building. The connection fee shall be proportionate to the burden of the ADU based on the ADU size and number of plumbing fixtures.

2. Conversion of floor space to an ADU within an existing structure with the appropriate meter size shall not be subject to new water and sewer connection fees.
- T. The primary scenic view protections from a primary living area identified under Del Mar Municipal Code Chapter 23.08 shall be limited to space within the primary dwelling unit that meets such definitions and in no case shall apply to an ADU.
- U. An exterior wall heater or air conditioning unit is permitted for an ADU. Any additional accessory mechanical equipment or exterior building features that are not otherwise required by Section 30.91.040 or for a dwelling unit per the California Building Code shall be subject to Administrative Design Review in accordance with Section 23.08.035, which shall include, but shall not be limited to, the following:
1. Roof eaves or architectural projections that overhang the face of the ADU building wall more than 24 inches.
 2. An attached deck, carport, or other outdoor covered area with a finished floor.
- V. ADUs shall not be located on a beach, in a wetland, seaward of the mean high tideline, in an environmentally sensitive habitat area, within a required coastal bluff setback, or in an area designated as highly scenic in the certified Local Coastal Program; and shall not involve significant alteration of landforms per Coastal Act section 13250 or the expansion or construction of water wells or septic systems.
- W. Within the Carmel Valley Precise Plan Specific Plan area, ADUs are permitted only on the following residential lots: Lots 3-9, 11-17, or 20-29.
- X. The owner of an ADU is encouraged to provide information to the City annually upon request for reporting to the State as to whether during the prior 12 months the ADU was rented to a tenant qualifying as low income, rented to a tenant qualifying as moderate income, occupied but not rented, or unoccupied.
- Y. If the ADU would be located in a proposed structure, the development pad for the new ADU structure shall be located at a grade elevation with a slope that is no greater than 4 to 1.

SECTION SEVEN: That DMMC Section 30.91.050 be amended as follows:

30.91.050 Junior Accessory Dwelling Unit Development Regulations

- A. A Junior Accessory Dwelling Unit (JrADU) is a small dwelling unit that is no more than 500 square feet in size and contained entirely within, and accessory to, an existing habitable Single Dwelling Unit pursuant to the regulations in Section 30.91.050 and California Government Code section 65852.22.
- B. A JrADU that is designed to meet all of the requirements in Section 30.91.050 shall be issued a permit in accordance with Section 30.91.030. The City is preempted by State Law from requiring any type of discretionary review or public hearing prior to approval.
- C. A maximum of one JrADU is permitted per lot developed with a single dwelling unit and located in a residential zone that allows JrADUs as identified in Section 30.91.020.
 - 1. A JrADU shall not be permitted on a lot with multiple dwelling unit development.
 - 2. A JrADU shall be permitted only within the primary dwelling unit and shall not be permitted within an accessory structure.
 - 3. A lot with a JrADU may also contain a detached ADU in accordance with Section 30.91.040(B).
- D. A JrADU shall be constructed entirely within the existing walls of a single dwelling unit and shall include the following:
 - 1. A separate exterior entry to the primary dwelling unit that is separate from the main entrance;
 - 2. A cooking facility with appliances and a food preparation counter and storage cabinets that are reasonable to the size of the unit; and
 - 3. Access to a bathroom within the JrADU or the primary dwelling unit.
- E. The following shall apply to the required separate exterior entry from the primary dwelling unit for a JrADU:
 - 1. The JrADU shall be limited to the first story or basement level unless the required exterior entry access above the first story level is existing.
- F. The property owner shall reside on the property in either the primary dwelling unit or in the JrADU, unless the property is owned by a governmental agency, land trust or non-profit housing organization.
- G. The JrADU may be rented, but shall not be sold or conveyed separately from the primary dwelling unit, nor shall authorization be granted for a condominium

conversion of a JrADU. If rented, the term for rental shall be for a term longer than 30 consecutive days; except that in the RC zone, a JrADU may be rented without such a limit.

- H. Prior to issuance of a permit for a JrADU on private property, the owner shall record a deed restriction with the County Recorder and file the recorded deed restriction with the City, acknowledging the applicable use limitations that shall run with the land. The deed restriction shall include the following text:
1. The subject property is developed with a Junior Accessory Dwelling Unit (JrADU) contained entirely within the walls of a primary dwelling unit pursuant to Government Code Section 65852.2 and Del Mar Municipal Code Chapter 30.91.
 2. This deed restriction identifies use limitations that shall be enforceable against the property owner and all successors in interest.
 3. The property owner shall reside on the property in either the primary dwelling unit or in the JrADU.
 4. The JrADU may be rented for periods of 30 consecutive days or greater, but shall not be sold or conveyed separately from the primary dwelling unit.
 5. The JrADU shall be 500 square feet maximum in size.
 6. The JrADU shall provide independent living facilities which shall include a separate exterior entry, a cooking facility with appliances, and a food preparation and storage cabinets; and access to a bathroom within the JrADU or the primary dwelling unit.
- I. Parking shall not be required for the JrADU.
- J. A JrADU shall not be considered a separate or new dwelling unit for the purpose of any fire or life safety regulation. Fire or life safety requirements that apply to a single dwelling unit may be applied to the structure as a whole inclusive of the JrADU. Special construction standards that would not otherwise apply to the single dwelling unit as a whole shall not be required for the JrADU.
- K. A new automatic residential fire sprinkler system shall not be required for development of a JrADU. An automatic residential fire sprinkler system shall not be required for a JrADU if the existing primary dwelling unit does not contain such a system.
- L. A primary dwelling unit with the appropriate meter size shall not be subject to new water and sewer connection fees for conversion of existing floor space to a JrADU.

- M. The primary scenic view protections from a primary living area identified under Del Mar Municipal Code Chapter 23.08 shall be limited to space within the Primary Dwelling Unit that meets such definitions and in no case shall apply to a JrADU.
- N. The owner of a JrADU is encouraged to provide information to the City annually upon request for reporting to the State as to whether during the prior 12 months the JrADU was rented to a tenant qualifying as low income, rented to a tenant qualifying as moderate income, occupied but not rented, or unoccupied.

SECTION EIGHT: That a new DMMC Section 30.91.060 be added as follows:

30.91.060 Regulations for ADUs on Lots with Multiple Dwelling Units

- A. On a lot with two existing dwelling units in a zone that allows a maximum of two primary dwelling units, each primary dwelling unit on the lot shall be permitted one ADU in accordance with the regulations in Section 30.91.040 and the following:
 - 1. One ADU within the walls of the existing primary dwelling unit; or
 - 2. One ADU attached to the existing primary dwelling unit; or
 - 3. One detached ADU per primary dwelling unit.
- B. On a lot where multiple dwelling units are located within an existing structure that contains three or more dwelling units or within multiple structures that contain two or more dwelling units, the property owner shall be permitted to convert existing spaces within each multiple dwelling unit structure to ADUs as follows:
 - 1. The maximum number of ADUs permitted in accordance with Section 30.91.060(B) shall not exceed 25 percent of the total number of existing dwelling units on the lot.
 - 2. The existing space to be converted to an ADU shall not be located within, or solely owned or controlled by, an individual dwelling unit on the multiple dwelling unit lot.
 - 3. Conversion of the space shall comply with the California Building Code Standards for a dwelling unit.
 - 4. Conversion of the space would not be in conflict with the existing permits applicable to the property by removing required access, open space, or recreation amenities.

- C. Up to two detached ADUs are permitted on a lot with existing multiple dwelling units in addition to the ADUs allowed within the existing multiple dwelling unit structure per Section 30.91.060(B) subject to the following:
1. The maximum size of the ADU shall be 1200 square feet.
 2. The maximum height of the ADU shall be 16 feet.
 3. The detached ADU shall comply with the setback provisions set forth in Section 30.91.040(N).
- D. All ADUs developed in accordance with Section 30.91.060 shall also comply with the standards in Section 30.91.040, unless explicitly stated otherwise. Where designed accordingly, proposed ADUs on lots with multiple dwelling units shall be issued a permit in accordance with Section 30.91.030.

SECTION NINE:

The City Council finds that approval of this ordinance is exempt from the preparation of an environmental document pursuant to the California Environmental Quality Act per Statutory Exemption (Public Resources Code section 21080.17) and CEQA Guidelines Article 19, Sections 15301 (Existing Facilities), 15302 (Replacement and Reconstruction), and 15303 (New Construction or Conversion of Small Structures). The City Council bases this finding upon the record prepared by the City and the City's analysis of the potential environmental effects of this ordinance.

SECTION TEN:

This Ordinance was introduced by the City Council on May 18, 2020.

SECTION ELEVEN:

The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

SECTION TWELVE:

Upon adoption, the Ordinance will be submitted to the California Coastal Commission for certification as a Local Coastal Program Amendment. The Ordinance will take effect and be in force on the date that the Coastal Commission takes action to unconditionally certify the Local Coastal Program Amendment.

SECTION THIRTEEN:

Within 60 days of the date of final certification by the California Coastal Commission, the City shall file a copy of the Ordinance with the State Department of Housing and Community Development.

PASSED, APPROVED AND ADOPTED by the City council of the City of Del Mar, California, at the Regular held this 1st day of June, 2020.



Ellie Haviland, Mayor
City of Del Mar

APPROVED AS TO FORM:



Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, ASHLEY JONES, Administrative Services Director/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No. 966, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 1st day of June, 2020, by the following vote:

AYES: Mayor Haviland, Deputy Mayor Gaasterland, Council Members
Druker, Parks and Worden
NOES: None
ABSENT: None
ABSTAIN: None



Ashley Jones, Administrative Services
Director/City Clerk
City of Del Mar



The Law Office of
Julie M. Hamilton

April 9, 2021

Chair Steve Padilla and Commissioners
California Coastal Commission
7575 Metropolitan Drive, Suite 101
San Diego, CA 92108-4402
SanDiegoCoast@coastal.ca.gov

VIA EMAIL

RE: Appeal No. A-6-DMR-21-0018

Dear Chair Padilla and Commissioners:

I represent Mark Wyland, appellant in the appeal of a coastal development permit for the conversion of an existing garage to an accessory dwelling unit (“ADU”). Mr. Wyland agrees with the staff recommendation finding substantial issue with Appeal No. A-6-DMR-21-0018.

The project site is located on the beachfront in Del Mar with an address on Ocean Front; Ocean Front is alley width with no street parking that provides access to a number of beachfront homes. The existing home is a 525 sq. ft. studio with a two-car garage. The applicant is proposing to convert the garage into a 392 sq. ft. studio ADU with no off-street parking. The City of Del Mar has adopted a new ADU ordinance that would allow the conversion of existing garages to an ADU without replacement parking. The Local Coastal Plan (“LCP”) Amendment for this ordinance is pending, therefore, the appropriate standard of review is the certified LCP and the Coastal Act. Staff has stated the proposed amendment “raises concerns about potential adverse impacts to public access.” (Staff Report, p. 8.) The issue with this application is the loss of parking sufficient to support the proposed use and the subsequent loss of public parking as the occupants are forced to park on the street.

The **certified** LCP requires replacement parking when converting an existing garage into an ADU. Therefore, the project is not consistent with the certified LCP. The loss of off-street parking for the occupants of the existing and proposed units will have an impact on available public access parking and is not consistent with the public access policies of the Coastal Act. For the reasons stated in the staff report and summarized above, the Commission should find Appeal No. A-6-DMR-21-0018 presents a substantial issue due to inconsistency with the certified Local Coastal Plan and the public access policies of the Coastal Act.

Chairman Steve Padilla

April 9, 2021

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Thank you for your time and consideration of these issues, I remain available if you have any questions or need additional information.

Regards,



Julie M. Hamilton

julie@jmhamiltonlaw.com

Attorney for Mark Wyland