



Posted: November 10, 2023

NOTICE AND CALL OF A MEETING OF THE **TRINIDAD PLANNING COMMISSION**

The Trinidad Planning Commission will hold a regularly scheduled monthly meeting on
WEDNESDAY NOVEMBER 15th, 2023, AT 6:00 P.M.

For your convenience, this meeting will be held in person and via videoconference hosted on the Zoom platform.

PUBLIC COMMENT:

Public comment may be submitted via email in advance of the meeting, or in an orderly process during the meeting. You can email comments before the meeting to asouza@trinidad.ca.gov. Or you can deliver hand-written comments to 409 Trinity Street, or mail them to P.O. Box 390, Trinidad CA, by 2:00 p.m. on the day of the meeting for posting on the City website.

HOW TO PARTICIPATE:

You are invited to participate in person at Trinidad Town Hall or by Zoom.

Join from PC, Mac, Linux, iOS or Android:

<https://us06web.zoom.us/j/84168640285?pwd=yKetRCsg0xQvRj6wVrEbbzm8R6wY9K.1>

Password: 463035

To phone in, dial 888-278-0296 (toll free); Conference Code: 685171

Please note that live meeting logistics will be prioritized. Connectivity issues on the part of the City may result in the meeting being delayed or rescheduled but technical challenges experienced by individuals will not interrupt or halt progress of the meeting.

The following items will be discussed:
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- I. ROLL CALL**
- II. APPROVAL OF MINUTES – October 18, 2023**
- III. APPROVAL OF AGENDA**
- IV. ITEMS FROM THE FLOOR**
- V. AGENDA ITEMS**

Public Hearing / Discussion / Decision / Action

1. Trinidad 2023-03: Update on the temporary closure of the ALMT and progress to-date to reopen the trail.
2. Policies for After-the-Fact Planning Permits: Discussion/decision regarding modification of the policies for considering and approving after-the-fact planning permits as set forth in the policy adopted by the Planning Commission on February 17, 2021. *Continued from the October 18 meeting.*
3. ADU Ordinance: Discussion regarding a draft ADU ordinance revised based on discussions with Coastal Commission staff.

VI. COMMISSIONER REPORTS

VII. STAFF REPORT

VIII. FUTURE AGENDA ITEMS

The items listed below have been requested to be on a future Planning Commission agenda and will not be discussed at this meeting. Publication of this list is not required by law, and the list's inclusion on this agenda does not constitute, nor substitute for any noticing requirements. Also, please be aware that this list is subject to change.

- Vegetation regulations
- Signage Master Plan/Sign regulations
- Annexation (added 09/20/23)

IX. ADJOURNMENT

The meeting packets can be accessed at the following link:

<https://www.trinidad.ca.gov/meetings>

**MINUTES OF THE REGULAR MEETING OF THE TRINIDAD PLANNING
COMMISSION WEDNESDAY, OCTOBER 18, 2023 VIA HYBRID**

I. CALL TO ORDER/ROLL CALL (6:00 pm)

Commissioners Present: Cole, Hakenen, Hopkins, Johnson, Slay

Commissioners Absent: None

City Planner Staff: Parker

City Staff: Naffah, Souza

II. APPROVAL OF MINUTES

April 19, 2023

Motion (Johnson/Slay) to approve the minutes as submitted. Hakenen abstained due to not having been in attendance. Passed unanimously (4-0).

July 12, 2023

Motion (Slay/Cole) to approve the minutes as submitted. Hopkins abstained due to not having been at the meeting. Passed unanimously (4-0).

September 20, 2023

Motion (Johnson/Hopkins) to approve the minutes as submitted. Passed unanimously (5-0).

III. APPROVAL OF AGENDA

Motion (Johnson/Hakenen) to approve the agenda. Passed unanimously (5-0).

IV. ITEMS FROM THE FLOOR

Commissioner Hakenen stated that he has heard complaints that the audio for meetings has been poor quality. City Manager Naffah responded that the City just upgraded the internet connection, which should improve it.

V. AGENDA ITEMS

Public Hearing/ Discussion/ Decision/ Actions

1. Trinidad 2023-03E: Extension of the temporary closure of the ALMT and monthly update on the Old Home Beach Trail (ALMT and Parker Creek) closures and progress to-date to reopen them.

Staff Report

City Planner Parker explained that the temporary closure of the Axel Lindgren Memorial Trail approved in April will expire on November 9th. However, due to the unsafe conditions at the trail, she recommended a seven-month extension of the temporary closure to allow more time to develop short-term repair options with the intention of re-opening the trail by Memorial Day

weekend 2024. She also informed the Commission that the fencing on the beach had been removed, the City has requested a copy of the Tsurai Ancestral Society (TAS) contracted GHD report on rerouting options.

Commissioner Comments and Questions

Johnson clarified that the extension is appealable to the Coastal Commission. Johnson said he would like to see a schedule of milestones from the Tsurai Management Team (TMT) and voiced concern whether the trail would actually be re-opened in May.

Hopkins shared that the TAS have stated that they will review the GHD report at their November board meeting and then present it to the TMT, at which point it will be available to the public. There was a discussion about the possibility of Commissioners attending the TMT meeting. Naffah said that TMT meetings are closed when culturally sensitive topics are discussed. Brown Act requirements were clarified.

Cole asked when the extension would go into effect. Parker explained the local and Coastal Commission appeal processes. Cole expressed his frustration that the City had not developed short-term repair options over the last six months. Naffah responded that staff were waiting for the GHD report at the request of the TAS and emphasized his desire to get the trail open ASAP. Cole stated that he was not sure he could find that “substantial progress” had been made in order to allow an extension based on the conditions on the original approval.

Hakenen also voiced his frustration with the extension noting that the Planning Commission had made it clear that they wanted a “Plan B” for reopening in addition to the reroute being planned. Naffah stressed that he is also frustrated; the GHD report was delayed and has still not been provided to the City. Hakenen noted that he feels that some progress has been made, just not enough.

Public Comment

There were no comments from the public.

Commissioner Discussion

Slay noted that rerouting the trail will be significant undertaking and take a considerable amount of time, therefore, a short-term repair is essential. He also asked if monthly extensions would be a burden on City staff. Parker said that, since she is already presenting monthly updates on the project, it would not be significantly more work, but would require additional noticing and appeal periods.

Hakenen clarified the plans for rerouting the trail, which would more closely follow the traditional route. Johnson clarified that funding has yet to be secured for a reroute.

Hakenen asked for clarification on the permitting process for a short-term opening. Parker clarified that General Plan Policy 69 requires TAS approval for any work or soil disturbance, but closure requires approval of a CDP, which will likely eventually be appealed to the Coastal Commission if it is prolonged.

Slay stated that he understood the importance of reopening the trail for the tourist season but wanted to reinforce that residents also use these trails year-round.

Cole mentioned that it looks like people have been going around the fencing blocking the trail.

Hakenen suggested approving the extension for four months and adding a condition that the City Manager provide a re-opening plan at least one meeting prior to when the next extension hearing would be and made a motion as such. It was not seconded.

There was a discussion about the length of the extension. Johnson said that he didn't see the benefit in returning in four months, because it is not enough time to do much, but he does agree with Condition #2. He suggested requesting the re-opening plan by February, but approving the extension for seven months, which would go through Memorial Day. Commissioners Slay and Cole express their preference for Hakenen's motion for four months.

Hopkins also wants to ensure this is an urgent matter for staff; he does not want to wait until Memorial Day to hear about a plan. He also noted that the TAS comments at the last Trails Committee meeting were encouraging, because they want to see progress too. Hakenen does not want to disrupt the TMT discussions.

Johnson asked what would happen if the Planning Commission did not approve the extension. Parker explained that the extension would go to the City Council through an appeal or other means, because the trail cannot physically be opened at this time. Potential repair options are discussed.

The Commissioners revisit Hakenen's suggested motion. Parker clarified that condition #1 would be modified from the staff report to be limited to four months instead of seven; condition #2, requiring monthly updates, would remain the same as in the original approval; and condition #3, for City staff to present a short-term repair plan at least one month prior to the expiration, would be added.

Motion (Hakenen/Johnson) Based on the fact that current conditions at the base of the trail are hazardous and unstable, I move to extend the coastal development permit for the temporary closure of the ALMT for another four months as conditioned in the original approval with the modification of Condition #1 as shown in the supplemental staff report, except that the approval will expire in four months instead of seven, and with added condition

#3 that: the City Manager return no later than one meeting prior to the next expiration with a short-term reopening plan. Passed unanimously (5-0).

2. General Plan Update – Cultural and Historic Resources Element: Discussion of a draft Cultural and Historic Resources Element of the Trinidad General Plan.

Staff Report

City Planner Parker provided an update on the status of the various draft General Plan elements. She also shared the draft Cultural and Historic Preservation Element for Planning Commission review. She explained that finalizing this element is a task under the City's LCP update grant from the Coastal Commission. She also noted that she sent the element out to tribes more than a year ago. She met with and got comments from the Trinidad Rancheria, and the Yurok Tribe has noted that comments will be forthcoming soon, but the City has not yet received comments from the TAS, who have requested additional time due to workload.

Commissioner Comments and Questions

Johnson clarified that the appendices are summaries of various legal requirements. Johnson suggested the Element include a "land acknowledgement statement." He also observed that there are a lot of programs that should be reviewed closely; he suggested that some could be combined. He also suggested holding off on spending much time on the background and history narrative until feedback from the tribal groups has been received. Cole clarified with staff that all Tribes on the HAHC consultation list had been offered the opportunity to consult, but only the Trinidad Rancheria, Yurok Tribe, and TAS responded.

Slay observed the dichotomy between Euro-centric history and Native American cultural resources sections and suggested that historic and cultural resources are not necessarily separate. After some discussion, it was pointed out that different laws apply to these two types of resources, which is one reason to keep them separate, but that it should be recognized that they overlap.

Public Comment

There were no comments from the public.

Commissioner Discussion

The Commission went through the draft Cultural Element page-by-page.

Hakenen requested that all the acronyms be defined before they are used. On page 3, Hakenen clarified Tribal "entities" vs. "governments." On page 4, Hakenen asked if the "City projects" referred to projects in the City or projects that are City-sponsored; Parker will clarify that it is the later, because the City is not generally involved in the planning and design of private projects.

Johnson suggested changing “Sheriff’s Department” to “law enforcement” in CULT-1.5. Hakenen asked for clarification of trainings referred to in this section. Parker and Naffah provided clarification that it could mean formal training, communication protocols and signage about reporting looting.

Johnson asked for clarification of “public notice” in paragraph 3 on page 7. Parker explained that it refers to CEQA guidelines and she will review it and provide clarification. Johnson also suggested adding the section about NDAs for landowners to CULT-3.2 on page 9 and reordering the policies.

There was a discussion about the history narrative on page 10, and several inaccuracies were pointed out. Hopkins pointed out a disconnect in the transition from pre- to post-Euro-American history and that the Tsurai Village community is downplayed. Slay would like the phrase “and historic and cultural properties” added when structures and buildings are discussed. There was a discussion about collaboratively crafting a better written narrative of Trinidad’s history.

Hakenen requested swapping “City Council” for “Board of Supervisors” in Program HIST-1.1.4 on page 11. Johnson suggested consolidating programs HIST-1.1.1 – 1.1.4. Hopkins asked about enforcement. There was a discussion about historic buildings in town and the pros and cons of having a historic preservation ordinance.

3. Policies on Detached Living Spaces: Discussion/decision regarding modification of the standard conditions for approving detached living spaces as set forth in the policy adopted by the Planning Commission on April 18, 2018. Continued from the September 20, 2023 meeting.

Staff Report

City Planner Parker reported that she had revised standard condition #4 based on the discussion at the last meeting, and the updated #3 based on comments from the Building Inspector. She recommended the Commission approve the revised policy.

Commissioner Comments and Questions

Slay suggested replacing the word “periodic” with “episodic” in #4. Hakenen suggested just removing “periodic” to avoid confusion. He also clarified that deed restrictions can be removed such as if a project is never constructed after a building permit is obtaining and a deed restriction recorded. Hakenen also suggested including the definition of “substantial evidence.” Parker suggested it could be added as a footnote. Commissioners agreed with the suggested changes.

Public Comments

There were no comments from the public.

Commissioner Discussion

There was no additional discussion.

Motion (Johnson/Cole) to adopt the detached living space standard conditions as presented and as amended at the October 18, 2023 meeting. Passed unanimously (5-0).

4. Policies for After-the-Fact Planning Permits: Discussion/decision regarding modification of the policies for considering and approving after-the-fact planning permits as set forth in the policy adopted by the Planning Commission on February 17, 2021.

Staff Report

City Planner Parker provided an overview of the policy developed in 2021, explaining that the recent “second offence” had resulted in the Planning Commission want to relook at the policy. She recommended the Commission provide feedback and suggested changes.

Commissioner Comments and Questions

Hopkins clarified the process for projects that do not include construction.

Cole shared observations from his experience with after-the-fact permits noting that he was not aware that a permit was required for cutting trees. During the hearing, he was also unclear about the meaning of “extenuating circumstances” in standard procedure #4. He recommended that the Commission be allowed discretion with the assessment of fees. Parker suggested that “extenuating circumstances” could include serial offenders. Cole pointed out that not everyone in town is on the same monetary playing field and that violations could be accidental, so he doesn’t think the process should be too punitive.

Slay expressed concern about the inability to compensate when irreparable damage has been done to the environment. Parker said that is partially covered in standard procedure #3 where restoration is required. Slay would like “at the applicant’s expense” added to #3.

Parker suggested that the City could provide better information and more outreach regarding land use rules and permit requirements. She noted that the City currently has a REAP grant to redo some of the application forms and create FAQs for the website.

Johnson voiced his support for periodic outreach and graduated penalties. Hakenen suggested providing information for actions that require permits as well as actions that do not require permits. There was a discussion about particularly targeting new owners with this information.

Public Comments

None.

Commissioner Discussion

Several clarifying statements were added to the policy narrative including: (1) that ignorance of the rules is not an excuse for violations, but that the City will endeavor to make information on permit requirements accessible; (2) that the purpose is not about money, but about public health and safety and community well-being; and (3) clarifying that the option to apply for an after-the-fact permit is an alternative to the City pursuing enforcement action. In addition, a statement that all fees and costs for studies, remedial work, City staff time, etc. will be the responsibility of the property owner/applicant.

VI. COMMISSIONER REPORTS

Hopkins reported back from the Trails Committee meeting noting that the Coastal Commission's decision regarding the Van Wycke Trail was discussed. Trail signage options were discussed. He encouraged others to share ideas for trail benches and signage. Cole reported that the "private drive" sign was removed from the new gate across Groth Lane, and a pedestrian path was made around the gate. But he suggested that it should also have a public trail sign.

Hakenen shared that the Water Advisory Committee recently met and will meet again in November. The WAC discussed water plant staffing, postcard mailers, the tank replacement project, and the 2022 Consumer Confidence Report. The WAC supported the Planning Commission's recommendations for monitoring water use and providing annual reports, but not taking regulatory action at this time.

Slay attended the Short-Term Rental Committee meeting. The group mostly discussed cost-tracking and updating the fee structure.

VII. STAFF REPORT

City Planner Parker is working on closing out the LEAP and SB2 grants, but some of the tasks, such as the ADU ordinance, are still in progress. Parker is currently working on the General Plan update, LCP grant and LEAP grant tasks including a preliminary annexation study for Area A. She asked the Commission if there was a preferred format for the staff reports, for which there was not a strong preference. Slays requested more information about potential impacts to cultural resources when making project decisions.

VIII. FUTURE AGENDA ITEMS

- Vegetation regulations
- Signage Master Plan/Sign regulations
- Annexation (added 09/20/23)

IX. ADJOURNMENT

Adjourned at 8:29 P.M. The next regularly scheduled meeting is November 15, 2023.

Submitted by:

Anton J. Souza
Administrative Assistant

Approved by:

Aaron Hakenen
Planning Commission Chair

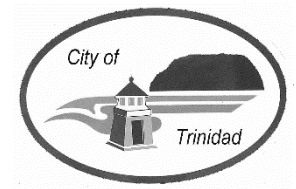


DISCUSSION AGENDA ITEM #1 SUPPORTING INFORMATION

1. Trinidad 2023-03: Update on the temporary closure of the ALMT and progress to-date to reopen the trail.

Supporting documentation follows with: 1 page

DISCUSSION / ACTION AGENDA ITEM



Wednesday, November 15, 2023

Item: Update on the temporary ALMT closure and progress to-date to reopen the trail.

Background

At the April 19, 2023, meeting, the Planning Commission approved an emergency CDP (2023-03) to temporarily close the ALMT and Parker Creek Trails to protect sensitive areas and public safety due to erosion along the toe of the bluff. The Planning Commission approved the closures on the condition that monthly reports are provided at the regular Planning Commission meetings for as long as the trail(s) are still closed.

The Parker Creek Trail was reopened on May 26, 2023; the ALMT remains closed. An extension for the temporary closure of the ALMT was approved at the October 18 meeting where the Planning Commission made it clear to staff that they expect to see progress made towards a short-term repair to allow reopening of the trail by Memorial Day weekend 2024 while longer-term rerouting of the trail is considered and planned.

Update

The TAS have stated that they will discuss the report GHD prepared at their November board meeting and then present the report to the Tsurai Management Team.

At the October meeting, Commissioner Cole stated that it appeared people were going around the fencing closing the ALMT. On October 23, the City Manager directed Public Works staff to further secure the fencing at the top and bottom of the trail. More fencing was added to the top to extend further into the briars and two additional 'closed for restoration' signs were added. At the bottom, loose branches were added on either end to further discourage going around the fencing. After inspection, the City Manager found that it did not appear that the erosion control matting had disturbed or walked on.

In addition, the City Manager will request GHD to provide some recommendations for short-term repairs to the ALMT that would be the minimum necessary to safely reopen the trail. It is hoped to have those by the end of the year and then arrange a TMT meeting in January to discuss them.

Staff Recommendation/Suggested Action(s):

No action needed. Accept the staff report and ask questions or request additional information as needed.

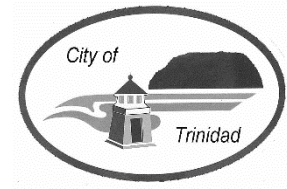


DISCUSSION AGENDA ITEM #2 SUPPORTING INFORMATION

2. Policies for After-the-Fact Planning Permits: Discussion/decision regarding modification of the policies for considering and approving after-the-fact planning permits as set forth in the policy adopted by the Planning Commission on February 17, 2021. *Continued from the October 18 meeting.*

Supporting documentation follows with: 2 pages

DISCUSSION / ACTION AGENDA ITEM



Wednesday, November 15, 2023

Item: Policies for Processing After-the-Fact Permits: Discussion/ decision regarding modification of procedures for processing after-the-fact permits as set forth in the policy adopted by the Planning Commission on February 17, 2021. *Continued from the October 18 meeting.*

Background

The Planning Commission adopted the After-the-Fact Permit Processing Policy on February 17, 2021, in order to help applicants and the Planning Commission understand the process and to ensure that it is applied consistently. But during on an after-the-fact permit hearing later in 2021, the Planning Commission expressed dissatisfaction with standard procedure and condition #3, particularly with the vagueness of the phrase "extenuating circumstances." However, after an agendized discussion, it was decided to leave the language as adopted in order to leave flexibility for the Planning Commission to determine a monetary penalty on a case-by-case basis.

Then a recent experience with a second after-the-fact permit request from the same property owner prompted the Planning Commission to review the policy again. Therefore, the policy was discussed at the October 18 meeting. During the discussion, the Planning Commission recommended several clarifying statements be added to the narrative and one additional standard procedure and condition added specifying that all costs are the responsibility of the applicant. Staff has revised the policy based on those recommendations.

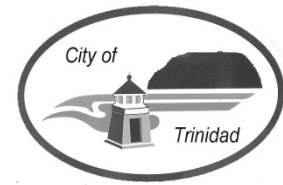
Staff Recommendation

Review and discuss the After-the-Fact Permit Processing Policy and approve the changes or direct staff to make additional changes.

Attachments

- Revised Planning Commission Policy on After-the-Fact Permit Processing (1 page)

PLANNING COMMISSION POLICY



After-the-Fact Permit Processing

Adopted February 17, 2021; Revised November 15, 2023

Purpose

This policy provides guidance to City of Trinidad staff and the Planning Commission on processing permits for which work has already occurred. The work may be partially or fully completed. This policy is intended to protect public health and safety and promote community well-being. These guidelines shall be used by staff and the Planning Commission in reviewing and acting upon an after-the-fact permit application, including design review and/or, grading, use, and coastal development permits, and variances.

Background

For various reasons, sometimes work is started without obtaining necessary permits and approvals. The City will endeavor to ensure that permit requirements are readily accessible, but ignorance of the rules is not an excuse for violations. For work that is otherwise or potentially consistent with Trinidad's codes and regulations, the responsible party has the option to apply for the appropriate permits in order to rectify the violation as an alternative to enforcement action on the part of the City. Such permits are known as after-the-fact permits. This policy in no way affects or supersedes City ordinances dealing with building or land use violations or nuisances.

Standard Procedures and Conditions for After-the-Fact Planning Permit Approvals

1. After-the-Fact approvals will be held to the same standards as if the work had not been completed and will be reviewed according to the standards and regulations in effect at the time of review.
2. Applicants may be required to provide evidence or studies documenting conditions prior to work commencing and/or proof of permits for existing improvements.
3. Work that is not approved through an after-the-fact permit shall be required to be removed and restored to prior conditions.
4. All expenses related to permitting unauthorized work, including but not limited to any fees, studies, plans, remediation, etc. shall be the responsibility of the applicant and/or property owner.
5. Unless the Planning Commission determines there were extenuating circumstances, after-the-fact approvals will generally be conditioned on the applicant paying double the permit costs, which vary depending on the actual costs to the City for processing the application.
6. Planning Commission decisions, including conditions and fees, may be appealed to the City Council.

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DISCUSSION AGENDA ITEM #3 SUPPORTING INFORMATION

3. ADU Ordinance: Discussion regarding a draft ADU ordinance revised based on discussions with Coastal Commission staff.

Supporting documentation follows with: 35 pages



AGENDA ITEM MEMORANDUM

TO: Trinidad Planning Commission

FROM: Trever Parker, City Planner

DATE: November 8, 2023

RE: Revised Accessory Dwelling Unit Ordinance

Background

For a number of years, State law has required local jurisdictions to approve Accessory Dwelling Units (ADUs) that meet certain standards. As the State housing crisis continues and housing goals have not been met, the State has further curtailed local jurisdictions' ability to restrict ADUs. Trinidad has been somewhat buffered from these requirements, because the State ADU law does not supersede Local Coastal Programs that have been certified by the Coastal Commission. But ADUs can provide an important source of more affordable housing in the Coastal Zone, and one of the implementation measures in the City's adopted Housing Element is to adopt an ADU ordinance.

History

Trinidad adopted an ADU ordinance in 2012 that was in compliance with the State ADU law in effect at that time. However, upon submittal to the Coastal Commission for certification, the Coastal Commission requested additional information and analysis to ensure that ADUs would not impact coastal resources. The additional information generally fell into three categories: adequacy of water, wastewater, and parking. At the time, the City did not have the information that was being requested, nor the means to obtain it. In addition, the City was also working on certification of its first short-term rental (STR) ordinance (vacation dwelling units (VDUs) at the time) and chose to focus on that ordinance; so the ADU ordinance never went into effect.

Since then, the City completed a Geotech study and groundwater modeling for the stormwater project. In addition, several water studies were completed, including a build-out assessment that included ADUs. And a parking assessment was recently completed. Therefore, City should now have the information needed to show that ADUs, when regulated, will not negatively affect water supply, wastewater treatment capacity, nor parking availability and public access.

With funding from the SB2 housing grant, City staff and the Planning Commission worked on a new ADU ordinance starting in April 2021. After several months of work with the Planning Commission, a draft was submitted to Coastal Commission staff for review and comment. It took several months to get initial comments, and then several more months for City staff to respond. Since December 2022, City staff have been meeting monthly with Coastal Commission staff regarding LCP update efforts, and the ADU ordinance has been a significant focus of those meetings. Coastal Commission staff have also been corresponding with staff at the CA Dept. of Housing and Community Development (HCD) regarding questions about state housing law and deviations from state standards. HCD now has the authority to review and approve (or reject) local ADU ordinances. It appears that Coastal Commission staff and City staff are generally in agreement on this latest version of the ADU ordinance.

Draft ADU Ordinance

As noted above, State law has become very strict in regards to ADUs, and generally requires local jurisdictions to approve them “by right” ministerially if they meet certain standards (which have tended to expand each year). Ministerial approvals include no discretion on the part of the jurisdiction—if the ADU meets the applicable standards, then it must be approved. Generally, the only deviations from State standards allowed are those necessary to protect sensitive resources, including coastal resources protected by the Coastal Act, or if it can be shown that services are inadequate to accommodate ADUs.

The proposed ordinance is lengthy and complex, but it includes some basic elements. ADUs can be attached to or detached from the primary residence, and/or they can be converted from existing structures. Junior ADUs (JADUs) are small ADUs carved out of existing living space. I believe JADUs may have the most potential in Trinidad, especially if OWTS upgrades are not required or minimal. OWTS requirements will likely be the primary limiting factor for ADUs in Trinidad.

There are different levels of permitting requirements for ADUs depending on what standards they meet, and where they are located. The permitting process will be primarily dictated by the Coastal Development Permit (CDP) requirements.

- Certain JADUs may not be development under the Coastal Act and would only require a ministerial ADU permit, not a CDP.
- J/ADUs that meet all the standards of the ordinance, that are not in or near sensitive areas, and that do not require OWTS upgrades (likely rare), can get a ministerial CDP. Within the areas appealable to the Coastal Commission, a ministerial CDP can be appealed to the Coastal Commission, but not to a City body.
- J/ADUs that require OWTS upgrades, but meet all other standards, can get an administrative CDP if they are not within the area appealable to the Coastal Commission, which includes most of the City (yellow area, Figure 1).

- J/ADUs that do not meet all the standards of the ordinance can get a standard CDP and use permit. Certain standards of the ordinance can be deviated from (such as a larger size), and others cannot. These are specified in the ordinance.

The ordinance contains coastal resource protection standards, public safety standards, standards that apply to both J/ADUs, standards specific to ADUs and standards specific to JADUs. There are also provisions for nonconforming and unpermitted/illegal ADUs. And that is a basic outline of the ordinance. Note that Coastal Commission staff are requiring the addition of six standard conditions for ADUs located near bluffs and unstable areas (§ 17.54.040.G). These will likely be requirements for all development in those areas in the LCP update.

One thing to note is that the area where “by right” ministerial approvals will occur is relatively limited (blue hatching, Figure 1). But even if in the ministerial area, most ADUs will require OWTS improvements, which isn’t allowed with a ministerial approval. Administrative permits could apply to ADUs with OWTS improvements, but only in areas that are not appealable to the Coastal Commission (orange area, Figure 1). Recall that administrative permits must be reported to the Planning Commission. It may be possible for someone may to get an administrative permit for just the OWTS improvements, and then get a ministerial permit for the ADU itself once those improvements are done.

I anticipate that one of the primary concerns with these new regulations will be the potential for view impacts, because new structures and additions to structures would be allowed without going through design review (or any public review). And, unfortunately, the height limits for ADUs under State law just changed in 2023 to allow taller structures. The current version of the City’s ADU ordinance still uses the previous limits, which were 16 feet for new structures or no more than a 10% increase on the height of an existing structure for additions. These limits could still have view impacts, but, considering the limited area that ministerial approvals will apply to, the impacts should be limited. In addition, accessory structures up to 15 feet in height are currently allowed without design review in most areas of the City. The new, taller height limits (up to 25 feet for attached ADUs) are untested in the coastal zone, and Coastal Commission staff are generally supportive of keeping the existing limits. I am working with them on ways to present this to HCD staff to get their concurrence. The Coastal Act does not protect private views, so it must be based on protecting public views and/or community character.

There are a few other deviations from state ADU law in the draft ordinance that seem like they do not apply to Trinidad or that could conflict with Coastal Act protections. One is the parking requirements. State law limits the situations under which a local jurisdiction can require parking space(s) for an ADU. I am proposing that we include a parking requirement where there is no on-street parking (e.g Wagner, Pacific) and when

parking spaces for the primary unit are impacted. Coastal Commission staff will need to discuss this with HCD staff, but are supportive of the proposed language.

Another deviation is in the number of J/ADUs allowed per parcel. The state law gets very complicated when it comes to multifamily housing. I left most of that out for brevity since it hardly applies to Trinidad. One final detail I haven't worked out is front yard setback requirements. Another change in 2023 that the State made was to not allow a front yard setback requirement if it would preclude construction of an ADU at least 800 sq. ft. in size. I did not add that provision since the law changed, and we will let HCD weigh in on it; the Coastal Commission hasn't dealt with that specific provision yet.

There is one particular area that we would like to get Planning Commission input on, and that is whether STRs of any type are allowed in either the J/ADU or primary dwelling (§ 17.54.060.H). Under state law, ADUs meeting certain standards are not allowed to be STRs, and for other ADUs, a local jurisdiction may prohibit them from being STRs. I have lumped all of these standards together in order to simplify the ordinance. Therefore, Coastal Commission staff feel that ADUs must be prohibited from being full-time STRs. However, there are several examples of ADU regulations in LCPs that prohibit both the ADU and primary unit from being STRs. And some Coastal Commissioners have strongly pushed for that, but not all; staff opinions vary.

In addition, Trinidad has allowances for Homeshare and Resident STRs. Homeshare STRs are where the resident rents out a bedroom in their home while they are home. Resident STRs are where someone lives in their home most of the year but can rent the entire house for up to 60 days while they are gone. Coastal Commission staff did not have a consensus about whether to allow what types of STRs, except that ADUs should not be rented as Full-time STRs based on state law. However, they anticipate that some Coastal Commissioners will have strong opinions. So, we want to get direction from the Planning Commission. It can be argued that with Trinidad's caps on STRs, housing is already protected, and new ADUs would not result in additional STRs. In addition, Resident and Homeshare STRs could increase affordability of housing in Trinidad and encourage the creation of ADUs.

Modifications to the ordinance since the July meeting include those based on Coastal Commission staff comments as well as Planning Commissioner comments made at the July meeting. Some notes and responses to Commissioner comments are included in comments in the ordinance.

If you are interested in further information about State ADU law, you can visit HCD's ADU website here: <https://www.hcd.ca.gov/policy-and-research/accessory-dwelling-units>, and access their ADU Handbook here (note it has not been updated to include the most recent 2023 additions): <https://www.hcd.ca.gov/sites/default/files/2022-07/ADUHandbookUpdate.pdf>

Staff Recommendation/Suggested Action(s)

Please provide input on the issue of STRs and ADUs. And you are welcome to ask questions and provide any other input that you have. Once I get this finalized with Coastal Commission staff, it will be sent to HCD for their review.

Attachments

- Draft ADU ordinance (19 pages)
- ADU Figure 1 (1 page)
- Coastal Commission ADU Memo (10 pages)

ORDINANCE NO. 2023-XX

AN ORDINANCE OF THE CITY OF TRINIDAD
AMENDING CHAPTERS 17.08, 17.28, 17.32, 17.36 AND 17.56 AND ADDING
CHAPTER 17.54 TO TITLE 17 OF THE TRINIDAD MUNICIPAL CODE

The City Council of the City of Trinidad does hereby ordain as follows:

ORDINANCE 2022-XX, SECTION 1:

Chapter 17.08 shall be amended as follows:

A new section 17.08.015 is hereby added to the Trinidad Municipal Code as follows:

17.08.015 Accessory dwelling unit

"Accessory dwelling unit" or ADU means an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary dwelling. It shall include permanent provisions for living, sleeping, cooking, eating, and sanitation on the same parcel as the primary dwelling is or will be situated. A detached ADU is not considered an accessory building or accessory use.

A new section 17.08.018 is hereby added to the Trinidad Municipal Code as follows:

17.08.018 ADU permit

"ADU Permit" means a permit issued by the City for either an ADU or JADU pursuant to this section.

A new section 17.08.365 is hereby added to the Trinidad Municipal Code as follows:

17.08.365 Junior accessory dwelling unit

"Junior Accessory Dwelling Unit" or JADU means a dwelling unit that is no more than 500 square feet in size and contained entirely within an existing or proposed single-family dwelling.

A new section 17.08.34 is hereby added to the Trinidad Municipal Code as follows:

17.08.373 Legally authorized residential structure

“Legally Authorized Residential Structure” is a dwelling unit or accessory structure that has either been constructed with required permits and approvals from the California Coastal Commission and City of Trinidad, or that is a legal, nonconforming structure.

A new section 17.08.377 is hereby added to the Trinidad Municipal Code as follows:

17.08.377 Living area

“Living area” means the interior **habitable area** of a dwelling unit, including habitable basements and attics, but not including garages or any nonhabitable accessory structures.

Commented [TP1]: This is directly from the state ADU law. The Coastal Commission uses “habitable space” in their guidance memo. I have sent an inquiry as to whether they have a definition, but their ADU specialist is out of the office until next week. In Trinidad, we usually use “conditioned space,” which is heated, to differentiate living area (e.g. counting square footage of a residence).

A new section 17.08.532 is hereby added to the Trinidad Municipal Code as follows:

17.08.532 OWTS modification

“OWTS Modification” means alterations to an existing onsite wastewater treatment system (OWTS) that do not constitute repair and maintenance pursuant to Public Resources Code § 30610.

A new section 17.08.54~~54~~ is hereby added to the Trinidad Municipal Code as follows:

17.08.54~~54~~ Primary dwelling

“Primary dwelling” means the primary, existing legal single-family residential dwelling unit which provides complete independent living facilities for one or more persons.

A new section 17.08.54~~86~~ is hereby added to the Trinidad Municipal Code as follows:

17.08.54~~86~~ Proposed dwelling

“Proposed dwelling” means a dwelling that is the subject of a permit application and that meets all the requirements for permitting, including coastal development permit requirements.

A new section 17.08.54~~98~~ is hereby added to the Trinidad Municipal Code as follows:

17.08.54~~98~~ Public transit

“Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

A new section 17.08.6594 is hereby added to the Trinidad Municipal Code as follows:

17.08.6594 Tandem parking

"Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

ORDINANCE 2022-XX, SECTION 2:

There is hereby added to the Trinidad Municipal Code a new Chapter, Chapter 17.54, ~~(and hereby added to the Coastal Commission-certified Zoning Ordinance a new Article 5.3),~~ "City of Trinidad Accessory Dwelling Unit Ordinance," which shall read as follows:

Section 17.54.010 – PURPOSE AND INTENT

The City recognizes the importance of a suitable living environment for all residents. The State Legislature has declared that accessory dwelling units (ADUs) are a valuable form of housing in California. ADUs offer flexibility in housing options and an opportunity for the development of small rental units that provide relatively affordable housing for low- and moderate-income individuals and families, provide economic support for resident property owners, and provide rental units for the elderly or disabled. It is the intent of the City to permit ADUs and Junior ADUs (JADUs), in conformance with state law (Government Code § 65852.2 and § 65852.22), subject to standards that will ensure the units contribute to a safe living environment for all residents. The purpose of this ~~C~~chapter is to maintain the small town, residential character of the City and protect coastal resources when regulating ADUs and JADUs, while complying with the Sections of Government Code § 65852.2 and § 65852.22 to the greatest extent feasible.

Section 17.54.020 – CAP ON THE NUMBER OF ADUS

The City of Trinidad has a limited water supply and no centralized sewage treatment; wastewater is treated via onsite wastewater treatment systems (OWTS). Therefore, in order to protect coastal resources, the number of new ADUs permitted pursuant to this Chapter shall be limited to thirty-six (36). JADUs shall not be subject to this cap. Any change to the cap on the number of ADUs shall require a Local Coastal Program (LCP) amendment, which shall be accompanied by information assessing the potential impact of additional ADUs on coastal resources, including, but not limited to, water quantity and quality. This cap shall be reevaluated if and when: (i) there are any changes to the City's water system that substantially change the amount of water availability, such as the addition of a new water source; or (ii) if the City permits 36 ADUs such that the cap on the number of ADUs is reached.

Section 17.54.030 – PERMITS REQUIRED

- A. Establishment of an ADU or JADU requires an ADU Permit from the City.
- B. All ADUs and JADUs shall be required to obtain a building permit. Occupancy of an ADU or JADU shall be prohibited until the unit receives a successful final inspection pursuant to a valid building permit and receives a certificate of occupancy or finaled permit card issued by the City on or after the date of the successful final inspection.
- C. Ministerial approval: Any application for an ADU or JADU that meets all applicable standards including §§ 17.54.040 – 17.54.080 of this chapter shall be approved ministerially by the City Planner without a public hearing except as provided in subsections D-F below.
- D. Use permit: A use permit shall be required in accordance with this chapter and chapter 17.72 of the Trinidad Zoning Ordinance for establishment of an ADU which does not meet all the standards of § 17.54.070. All other standards and requirements of this chapter and the Trinidad LCP shall apply, including design review approval in accordance with Chapter 17.60 ~~is also required~~ as applicable.
- E. Coastal development permits (CDPs): Coastal Development Permits are required for ADUs and JADUs that meet the definition of “development” under Public Resources Code (§ 30106) and that are not excluded from CDP requirements under the California Public Resources Code (§ 30000 and following) or the California Code of Regulations. ADUs or JADUs may be permitted in accordance with one of the following determinations:
 - 1. ADUs and JADUs meeting all applicable standards of the LCP, including §§ 17.54.040 – 17.54.080 as applicable, and that are entirely contained within the living area of the primary dwelling, including at least one bedroom, are not development and do not require a coastal development permit unless the conversion involves alteration to the size of the dwelling, removal or replacement of major structural components, the placement or erection of any solid material or structure on land, modifications to the OWTS, or if a previously issued CDP requires a CDP or CDP amendment for any development on the lot.
 - 2. ADUs and JADUs not included in subsection 1 above, and that meet all applicable standards of the LCP, including §§ 17.54.040 – 17.54.080 as applicable, and that do not require OWTS modification(s) shall be issued a ministerial CDP pursuant to § 17.54.100.
 - 3. ADUs and JADUs that meet all applicable standards of the LCP, including §§ 17.54.040 – 17.54.080 as applicable, and that require OWTS modifications may be issued an administrative CDP (§ 17.72.076), where applicable, consistent with standards established in the ~~Implementation Plan~~ LCP.
 - 4. ADUs that do not meet all the standards of § 17.54.070 or ADUs and JADUs that do not meet subsections A-C of § 17.54.040 or ADUs and JADUs that require

OWTS modifications within areas appealable to the Coastal Commission pursuant to Public Resources Code § 30603 require a standard CDP through issuance of a use permit and any other applicable approvals (e.g. design review), and shall be consistent with all applicable standards established in the Implementation Plan~~LCP~~.

- E. ADUs and JADUs that do not meet all applicable standards except as provided herein are not allowed.

Section 17.54.040 – COASTAL RESOURCE PROTECTION STANDARDS

In order to protect coastal resources, unless contained entirely within a legally authorized existing or approved residential structure that will not be repaired to the extent that it constitutes a replacement structure under § 13252 of Title 14, California Administrative Code, ADUs and JADUs, where applicable, shall comply with the following standards for the protection of coastal resources. All new development and improvements associated with an ADU or JADU (e.g. OWTS, parking and driveways, vegetation removal for fire safety, etc.) must also meet these standards.

- A. An ADU or JADU and any associated new development shall not be located within 100 feet of the boundary of an Environmentally Sensitive Habitat Area.
- B. An ADU or JADU and any associated new development shall not be located within 125 feet of the edge of a coastal bluff.
- C. An ADU or JADU and any associated new development shall not be permitted on a property with known archaeological resources.
- D. An ADU or JADU and any associated new development shall not be permitted on lands outside of the stable areas or within 100 feet of unstable lands or lands of questionable stability as designated on Plate 3 of the Trinidad General Plan.
- E. An ADU or JADU and any associated new development ~~may shall~~ not interfere with a public or prescriptive easement for access to the blufftop and/or shoreline.
- F. Exceptions to requirements A-D may be granted upon approval of an administrative CDP (§ 17.72.076), where applicable, consistent with standards established in the ~~Implementation Plan~~LCP or a standard CDP through issuance of a use permit in accordance with Chapter 17.72.
- G. Prior to issuance of any building permit for an ADU or JADU within 125 feet of the bluff edge or outside of the stable areas or within 100 feet of unstable lands or lands of questionable stability as designated on Plate 3 of the Trinidad General Plan, a deed restriction, approved by the City, shall be recorded with the County Recorder's Office, which shall run with the land and be binding upon any future owners, heirs, or assigns, to acknowledge and agree:

Commented [TP2]: There was a question about how someone would know/find this. But considering confidentiality laws, it is not likely information that could be made available to the public. It would have to be based on referrals to City staff and/or Tribes. I will bring this up with the Tribes as part of the general plan consultation to see if they want to create a map for staff use or some other alternative.

1. that the ADU or JADU is located in a hazardous area, or an area that may become hazardous in the future;
2. to assume the risks of injury and damage from such hazards in connection with the permitted development;
3. that they have no rights under Coastal Act Section 30235 and related LCP policies to shoreline armoring in the future;
4. that sea level rise and related coastal hazards could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or rendering it uninhabitable;
5. that the structure may be required to be removed or relocated and the site restored if bluff retreat reaches the point where the structure is threatened or the site is uninhabitable; and
6. that if portions of the subject permitted ADU/JADU, garage, foundations, leach field, septic tank, or other improvements associated with the ADU/JADU fall to the beach or adjacent property before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site, and the landowner shall bear all costs associated with such removal.

Section 17.54.050 – PUBLIC HEALTH AND SAFETY REQUIREMENTS

A. Building and Fire Standards.

1. Attached ADUs shall be subject to the same building and fire code standards as for any other modifications to a single-family residence. The installation of fire sprinklers shall not be required in an ADU if sprinklers are not required in the primary dwelling.
2. Detached ADUs shall be subject to building and fire code standards for new dwellings in effect at the time they are constructed, except that fire sprinklers shall not be required for the ADU if they were not required for the primary residence.
3. Newly constructed, detached ADUs shall comply with the California Energy Code requirement to provide solar panels. Solar panels may be installed on the ADU or the primary unit. New electrical lines shall be underground rather than overhead where feasible and if the lines of the primary unit are underground.

Commented [TP3]: I was asked to confirm that fire sprinklers are not required, which according to state law, they cannot be required in these situations. See Government Code §65852.2(a)(1)(D)(xii) and §65852.2(e)(3).

B. Onsite Wastewater Treatment System (OWTS):

1. Adequate sewage capacity must be available to serve the proposed new ADU and/or JADU as well as existing dwelling(s) on the property. Prior to approval

of a building permit, the applicant shall submit proof, in the form of written approval or verification by the Health Officer and OWTS administrator, that the existing OWTS is of adequate size and condition to support projected sewage flow for all existing and proposed dwellings on the property. For systems that are older than 10 years, or that were not engineered when originally constructed, a new soils suitability analysis, including a percolation test, may be required to verify the capacity of the OWTS.

2. If the capacity or condition of the existing OWTS is found to be inadequate to serve the existing and proposed dwellings on the property, ~~a CDP, the appropriate OWTS Permit, and any other necessary authorizations~~ all necessary permits and approvals shall be obtained to replace, modify, or upgrade the OWTS as needed and in conformity with all applicable policies of the certified Trinidad Local Coastal Program and in compliance with all current standards and requirements of the Health Officer.
3. An ADU or JADU involving new construction shall not encroach into the OWTS reserve area or its required setbacks. If no reserve area exists or it is undersized for the existing and proposed use(s), a reserve area shall be designated or expanded in accordance with current standards to serve the existing and proposed use(s).

Section 17.54.060 – GENERAL STANDARDS FOR ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

- A. An ADU or JADU may be located on any lot zoned to allow single-family or multifamily residential use (Urban Residential, Suburban Residential, and Planned Development zones) and which either contains an existing or proposed primary dwelling.
- B. The ADU or JADU must be located on the same lot as the existing or proposed primary dwelling.
- C. An ADU or JADU may be rented separately from the primary dwelling, but may not be sold or otherwise conveyed separately from the primary dwelling ~~except when the primary dwelling and the ADU are built by a qualified non-profit corporation and the ADU will provide low-income housing in accordance with Government Code § 65852.26 and only if the ADU has its own separate OWTS.~~
- D. ADUs and JADUs are considered a residential use but are not required to meet the density requirements of the General Plan/Land Use Plan or zoning ordinance.
- E. A maximum of one ADU and one JADU shall be permitted on any one parcel or lot with a primary or multi-family dwelling. ADU's may not be permitted on lots already having two or more dwelling units thereon, not including a JADU.

Commented [TP4]: There was a question as to how this would work. It is unlikely to come up in Trinidad, so I haven't spent much time on it. I think we can address it if and when it ever does come up.

F. A certificate of occupancy or final inspection shall not be issued to an ADU or JADU prior to the certificate of occupancy or final inspection for the primary dwelling.

G. Utilities for detached ADUs shall be installed underground if the utility connections for the primary dwelling are underground. ~~Separate utility meters from the primary dwelling shall not be required for JADUs and attached ADUs less than 800 sq. ft. in floor area.~~

Commented [TP5]: There was a question as to when separate meters would be required. State law just prohibits the requirement for ADUs less than 800 sq. ft. For larger ADUs, it is up to the City. Does the PC want to specify that anything larger requires a new meter, or leave it up to the discretion of the Building Inspector?

H. Deed Restriction. Prior to issuance of any building permit for an ADU or JADU, a deed restriction, approved by the City, shall be recorded with the County Recorder's Office, which shall run with the land and be binding upon any future owners, heirs, or assigns, and that include the pertinent restrictions and limitations for the ADU or JADU including the following:

1. The prohibition on the conversion of all or a portion of the ADU or JADU to living space of the primary dwelling without prior City approval and applicable permits;

~~2.~~ 2. The prohibition on the rental of the ADU or JADU for periods of less than 30 days;

~~3.~~ 3. The prohibition on the sale of the ADU or JADU separately from the primary dwelling consistent with § 17.54.060.C;

~~4.~~ 4. Restriction on the size and attributes (e.g. number of bedrooms) of the ADU and/or JADU and primary dwelling to what was approved by the City pursuant to this Chapter including limitations to the OWTS.

~~5.~~ 5. For ADUs proposed within 125 feet of the bluff edge that require the construction of a new structure, result in an expansion of an existing structure, or require repair or improvements to an existing structure to the extent that it constitutes a replacement structure pursuant to section 13252 of Title 14, California Administrative Code, a prohibition on the development of bluff or shoreline protective devices to protect the ADU from bluff retreat, erosion, or other coastal hazards in the future.

Commented [TP6]: Can/should we allow ADUs to be homeshare or resident STRs? Is this something that an exception should be allowed for (through a use permit/standard CDP)? Should the primary unit be allowed to be an STR?

Section 17.54.070 -DEVELOPMENT STANDARDS SPECIFIC TO ACCESSORY DWELLING UNITS

A ministerial ADU permit will be issued only if the ADU complies with all the following development standards:

A. The ADU may be attached to, or located within, the proposed or existing dwelling, including attached garages, storage areas or similar uses, or within an attached or detached accessory structure, or detached from the proposed or existing dwelling.

B. The total floor area of a detached ADU shall not exceed 1,200 square feet. The floor area of an attached ADU shall not exceed 50% of the floor area of the primary dwelling

or 1,200 sq. ft., except that at least 850 square feet shall be allowed. Maximum lot coverage and floor-to-area ratios shall be observed.

- C. The setback requirements for newly constructed ADUs are as follows: front – 20 feet, rear and side – 4 feet, street side – 15 feet. ADUs shall be permitted in legally permitted structures located within required rear and side setbacks.
- D. In order to protect visual resources and public views of the coast, a~~A~~ newly constructed attached or detached ADU shall be no greater than 16 feet in height. An ADU within an existing structure shall not increase the height of that structure by more than 10%.
- E. Off-street Parking:
1. Each ADU shall provide one off-street parking space per unit except as provided in (3). The parking space may be covered or uncovered and must be of standard size. Required parking may be located within required setbacks and can be tandem.
 2. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those parking spaces shall not be required to be replaced. Uncovered parking spaces for the primary dwelling shall be replaced, but not to exceed two spaces.
 3. If the lot on which an ADU is proposed is currently conforming as to parking for the existing or proposed primary dwelling(s), and the ADU is located on a street with on-street parking then no additional parking shall be required for an ADU if:
 - a. The ADU is located within one-half mile walking distance of public transit.
 - b. Where the ADU is located within an architecturally and historically significant historic district.
 - c. The ADU is part of the proposed or existing primary residence or an accessory structure.
 - d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - e. When there is a car share vehicle located within one block of the accessory dwelling unit.
 - ~~f. When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single family dwelling or a new multifamily dwelling on the same lot, provided that the ADU or the parcel satisfies any other criteria listed in this paragraph.~~
- F. Construction of an ADU shall not require more than 1,000 sq. ft. or 50 cubic yards of grading.

Commented [TP7]: There was a suggestion to map these. Only 'a' applies to Trinidad currently. We may be able to add that to the ADU figure without making it too busy, but our drafter is very busy right now, so it will have to wait.

- G. A permanent foundation shall be required for all ADUs.
- H. ADUs that involve new construction shall incorporate the same or similar architectural features and building materials as the primary dwelling unit or dwellings located on adjacent properties.
- I. The entrance to the accessory unit shall face the interior of the lot unless the accessory unit is directly accessible from an alley or a public street, or if it utilizes the same entrance as the primary unit. Windows which face an adjoining residential property shall be designed to protect the privacy of neighbors; alternatively, fencing or landscaping may be used to provide privacy screening.
- J. All newly constructed first-floor ADUs shall be adaptable for use by persons with ADA-defined disabilities as follows:
 - 1. The bathroom shall provide minimum clearances as specified for accessible units per California state accessibility requirements, and grab bar blocking shall be installed in the walls.
 - 2. Entry doors shall have a minimum width of three feet.
 - 3. Interior doors shall have a minimum width of 2 feet 10 inches
 - 4. Thresholds shall meet California state accessibility requirements
 - 5. The kitchen shall meet the minimum clearances specified in the California state accessibility requirements.
- K. Occupancy
 - 1. The principal place of residence of the property owner shall be either the ADU or the primary unit for ADUs constructed after January 1, 2025.
 - 2. The ADU shall be rented for terms of at least 30 days and shall not be used as an STR unless the primary dwelling is owner-occupied.

Commented [TP8]: I think this could apply to new structures as well as new conversions. However, it would not apply to remodeled living space.

Commented [TP9]: This may change based on PC direction on the STR issue above.

Section 17.54.080 – DEVELOPMENT STANDARDS SPECIFIC TO JUNIOR ACCESSORY DWELLING UNITS

- A. A JADU shall be constructed within the walls of a proposed or existing, legally authorized single-family dwelling and must include an existing, legally permitted bedroom from the primary dwelling. The residence shall not be part of a duplex, or other multi-family development.
- B. A JADU may include separate sanitation facilities or may share sanitation facilities with the primary dwelling.
- C. The property owner must reside within either the JADU or the primary dwelling. JADUs shall not be rented for terms less than 30 days.

- D. For purposes of setbacks and other zoning regulations, a JADU in new construction shall be considered to be a part of the principal dwelling of subject site and shall be subject to the same requirements of the underlying zoning district. But JADUs shall be allowed within an existing, nonconforming, single-family dwelling.
- E. The floor area of a JADU shall not exceed 500 square feet.
- F. A JADU shall have a separate exterior entry from the main entrance to the primary dwelling, which shall be provided to serve the JADU only.
- G. A JADU shall include an efficiency kitchen that includes a cooking facility with appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the JADU. In addition, the efficiency kitchen is limited to the following components:
 - 1. A sink with a maximum area of two square feet and with a maximum drain line diameter of one and one-half inches;
 - 2. Food preparation appliances that do not require electrical service greater than 120 volts ~~nor~~ natural or propane gas;
- H. No additional off-street parking is required for a JADU.

Commented [TP10]: There are not specific kitchen requirements for an ADU, except that, by definition, they have to have provisions for cooking and eating. § 17.08.250 of Trinidad's code defines dwelling unit as including a kitchen or kitchenette, which the PC has defined by policy. The first part of this section (not #1 & 2) is directly from the state code. The idea is that ADUs have more flexibility and JADUs are a more limited subset of ADUs. I am hoping that with the smaller kitchen limits, the OWTS requirements will be less onerous when the County updates their regulations.

Section 17.54.090 –ACCESSORY DWELLING UNIT AND JUNIOR ACCESSORY DWELLING UNIT PERMITTING PROCEDURES

- A. Submittal: Applications for ADUs and JADUs shall be submitted to the City Clerk's Office on a City of Trinidad ADU Application. All required information must be submitted before the application is considered complete.
- B. Fees: Fees for ADU permits shall be set by resolution of the City Council. Fees shall be based on the costs incurred to issue the permit, including costs for adopting and amending the ADU ordinance commensurate to individual permits.
- C. Timing for ADUs and JADUs meeting all the applicable standards of the LCP, including §§ 17.54.040 – 17.54.080 as applicable and that do not require OWTS modifications:
 - 1. The City shall act on the application for an ADU Permit within 60 days from the date the local agency receives a completed application if there is an existing dwelling on the lot. If the permit application to create an ADU or JADU is submitted with a permit application to create a new single-family dwelling on the lot, the City shall delay acting on the ADU Permit until the City acts on the permit application to create the new single-family dwelling and all appeal periods have ended, but the ADU Permit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

2. If the City does not act within the specified time period or extension thereof, the applicant may seek remedy to resolve the undecided permit request as set forth in California Government Code § 65956. The date of the actual filing of the application for the purposes of this Chapter shall be the date of the environmental determination as required by local and state environmental review procedures.
 3. Failure to act – notice.
 - a. Notification by Applicant. If the City has failed to act on an application within the time limits set forth in Government Code §§ 65950–65957.1, thereby approving the development by operation of law, the person claiming a right to proceed pursuant to Government Code §§ 65950–65957.1 shall notify, in writing, the City and, if a CDP was required, the Coastal Commission of his or her claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be approved.
 - b. Notification by City. When the City determines that the time limits established pursuant to Government Code §§ 65950–65957.1 or Government Code § 65852.2 for an ADU or a JADU have expired, the City shall, within seven (7) calendar days of such determination, notify any person entitled to receive notice pursuant to Title 14, California Code of Regulations § 13571(a) that the application has been approved by operation of law pursuant to Government Code §§ 65950–65957.1 and, if applicable, the application may be appealed to the Coastal Commission pursuant to § 17.72.100. This Section shall apply equally to a City determination that the project has been approved by operation of law and to a judicial determination that the project has been approved by operation of law.
 4. When an application for a coastal development permit has been deemed approved by failure to act, such approval shall be subject to the notice requirements of § 17.72.130 or, for coastal development ministerial permits, the notice requirements of § 17.54.100.
- D. ADU Permits: Permits for ADUs and JADUs that meet all the applicable standards of the LCP, including §§ 17.54.040–17.54.080 as applicable, and that do not require OWTS modification(s), will be granted ministerially by the Zoning Administrator in accordance with § 17.54.100. Other ADUs and JADUs shall be permitted as specified in § 17.54.030.
- E. Issuance: An ADU permit shall only be issued for an ADU or JADU if the application conforms to all the applicable standards of the LCP, including the regulations contained in this Chapter, and only after the Zoning Administrator makes the three findings below. If a CDP is required, the ADU Permit will be deemed approved upon issuance of the CDP.

1. The ADU is compatible with the design of the main unit and the surrounding neighborhood in terms of landscaping, scale, height, length, width, bulk, lot coverage, and exterior treatment.
2. The ADU will not have negative impacts on coastal resources or public access.
3. The ADU is consistent with applicable policies and regulations, including this Chapter, and other requirements of the certified LCP.

Section 17.54.100 - MINISTERIAL COASTAL DEVELOPMENT PERMITS

- A. Purpose. The purpose of this section is to provide for the ministerial issuance of CDPs for ADUs that meet all of the requirements specified in §§ 17.54.040 – 17.54.070.
- B. Approval. The Zoning Administrator or their designee may approve a ministerial CDP without the requirement of a public hearing. Any ministerial CDP approved by the Zoning Administrator or their designee for an ADU located in an area within the appeal jurisdiction of the California Coastal Commission shall contain a statement that the permit will not be effective until the appeal period to the California Coastal Commission has expired and no appeal has been filed.
- C. Appeals. A public hearing is not required for ministerial CDPs, and they are not appealable to the Planning Commission or City Council. For development located within the appeal jurisdiction of the California Coastal Commission, ministerial CDPs are appealable to the Coastal Commission in accordance with Coastal Commission regulations.
- D. Noticing.
 1. Ten days prior to action on a ministerial CDP, the applicant must post, at a conspicuous place, easily read by the public, and as close as possible to the site of the proposed development, notice using a form provided by the City.
 2. Notice that the Zoning Administrator or their designee intends to approve a ministerial CDP shall be posted in three public places within the city and mailed at least ten (10) calendar days prior to issuance by first class mail to:
 - a. The applicant;
 - b. All property owners within one hundred (100) feet of the property lines of the project site, and to each occupant of property within one hundred (100) feet of the property lines of the project site where it can be reasonably determined.
 - c. Any person who specifically requested, in writing, notice of such action; and
 - d. The Coastal Commission.

- E. Content of Notice. The notice shall contain the following information:
1. A statement that the development is within the coastal zone;
 2. The date of filing of the application and the name of the applicant;
 3. The file number assigned to the application;
 4. A description of the development and its proposed location;
 5. The date on which the ministerial coastal development permit will be deemed approved; and
 6. If the development is located in an area that is subject to the appeal jurisdiction of the California Coastal Commission, disclosure that the permit is appealable to the California Coastal Commission.
- F. Final Action. A decision on a ministerial CDP application shall not be deemed complete until the decision has been made and all required findings have been adopted.
- G. Notice of Final Action. Notice shall be mailed within ten (10) calendar days of final action by first class mail to:
1. The applicant;
 2. Any person who specifically requested, in writing, notice of such final action;
 3. The Coastal Commission; and
 4. The County Assessor.
- H. Effective Date.
1. Decisions of the approving authority on an application for a development that is appealable to the Coastal Commission shall become final and effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. If the notice of final action is deficient and does not contain information pursuant to § 17.54.100.E, the permit decision will be stayed and shall become final ten (10) working days after a corrected notice of final action meeting the requirements of § 17.54.100.E is received by the Coastal Commission pursuant to § 17.54.100.G and no appeal has been filed.
 2. Where an application for a development is not appealable to the Coastal Commission, the decision of the approving authority shall become final and effective following the action of the approving authority to approve or deny the ministerial CDP.

Section 17.54.110 – EXISTING ADU’s

A. Nonconforming ADU's

1. Legal, nonconforming (i.e., legally established prior to the certification of the City's Zoning Ordinance in 1980) ADU's shall maintain their nonconforming status and shall be subject to all the nonconforming regulations in chapter 17.64 of the Trinidad Zoning Ordinance, unless an ADU permit is approved for that unit pursuant to this chapter. If such permit is granted, then the ADU shall no longer be considered nonconforming and shall be subject to all the regulations and requirements of this chapter.
2. Legal, nonconforming ADU's are required to maintain their Onsite Wastewater Treatment System at a level of Satisfactory or better according to the City's OWTS Management Program. If the OWTS receives a performance rating of less than Satisfactory, then either modifications to the OWTS or restrictions on water use and occupancy should be required as conditions of the OWTS operating permit subject to any other applicable permit requirements.

B. Illegal ADU's

1. Owners of illegal ADU's, those that were constructed or converted after 1980 without Planning Commission approval of a coastal development permit and any other applicable permits, have a three-year grace period from the date of the certification of this ordinance by the Coastal Commission in which to apply for an ADU permit pursuant to this Chapter without penalty. In addition to meeting the development standards of this chapter or receiving approval of any applicable permits, they must also conform to the following requirements:
 - a. The ADU must meet all other applicable regulations and requirements of the Trinidad Municipal Code and Local Coastal Program.
 - b. ADUs must be inspected by the City Building Inspector and upgraded for compliance with health and safety requirements as ordered by the Building Inspector, which may require building permits and fees.
2. If an illegal ADU is not registered within the timeframe set forth above, then when discovered, whether by an OWTS inspection or other means, the owner shall apply for an after-the-fact permit in accordance with this Chapter and any other applicable regulations, subject to applicable penalties. Otherwise, the City shall immediately begin Nuisance Abatement against the property.
3. Any illegal ADU that cannot meet the standards of this chapter, the certified LCP and other applicable regulations shall not be utilized as an ADU and remedial or enforcement action shall be taken to bring the property into conformance with the LCP and other applicable regulations.

ORDINANCE 2022-XX, SECTION 3:

Chapter 17.28 shall be amended as follows:

17.28.020 Principal permitted uses.

Principal permitted uses in the SR zone are:

- A. Single-family dwelling, subject to the requirements of TMC 17.28.090;
- B. Keeping of no more than four household pets on each lot;
- C. Placement of one recreational vehicle on a vacant lot for use as a seasonal residence for not more than six months in any 12-month period; provided, that if occupied for more than one month in any 12-month period, a water supply and wastewater disposal system shall be provided;
- D. Home occupations as provided in TMC 17.56.060;

E. ADUs and JADUs as provided in Chapter 17.54.

17.28.050 Maximum density.

Maximum density in the SR zone is 20,000 square feet of lot area per dwelling, guesthouse, or servants' quarters plus one ADU and one JADU per lot subject to the requirements of Chapter 17.54.

ORDINANCE 2022-XX, SECTION 4:

Chapter 17.32 shall be amended as follows:

17.32.020 Principal permitted uses.

Principal permitted uses are:

- A. Single-family dwelling, subject to the requirements of TMC 17.32.090;
- B. Home occupation, as provided in TMC 17.56.060;

C. ADUs and JADUs as provided in Chapter 17.54.

17.32.050 Maximum density.

Maximum density in the UR zone is 8,000 square feet of lot area per dwelling, guesthouse, or servants' quarters plus one ADU and one JADU per lot subject to the requirements of Chapter 17.54.

ORDINANCE 2022-XX, SECTION 5:

Chapter 17.36 shall be amended as follows:

A new section 17.36.015 is hereby added to the Trinidad Municipal Code as follows:

17.36.015 Principal permitted uses.

A. ADUs and JADUs as provided in Chapter 17.54.

Section 17.36.040 of the Trinidad Municipal Code is hereby amended as follows:

17.36.040 Maximum density.

The number of dwelling units permitted shall be determined by dividing the net development area by 8,000 square feet. Regardless of the lot size, one ADU and one JADU shall be allowed per lot subject to the requirements of Chapter 17.54.

Net development area shall be determined by subtracting the area devoted to commercial uses including yards, open space, parking and access roads serving commercial uses, and areas over 30 percent slope. If septic tanks are the intended means of wastewater disposal, density shall be based on soil suitability and the requirements of the city's wastewater disposal regulations.

ORDINANCE 2022-XX, SECTION 6:

Section 17.56.108 shall be amended as follows:

17.56.180 Parking.

Off-street parking and loading space shall be provided in all zones in conformity with the following:

A. Each required parking space shall not be less than eight feet six inches wide, 18 feet long and seven feet high; provided, that where three to four spaces are required, one space may be 16 feet long to accommodate compact cars; where five spaces are required, two may be 16 feet long; and where six or more spaces are required, up to 50 percent of the spaces may be 16 feet long.

B. Parking spaces shall be as follows:

1. Campground, RV park, motel: two spaces plus one space per unit;
2. Single-family dwelling and mobilehome on a lot: two spaces in addition to any garage spaces;
3. Attached dwellings (duplex, townhouse): one and one-half spaces per unit;
4. ADUs and JADs: as provided in Chapter 17.54;

54. Offices and retail business: one space per 300 square feet of gross floor area, with a minimum of three spaces. One additional space per employee in a medical or dental office;

65. Restaurant, lounge: one space for each four seats or 200 square feet of gross floor area, whichever is the largest;

76. Drive-in restaurant: one space per 100 square feet of gross floor area;

87. Wholesale, service station, vehicle and equipment repair, day care center, retail sale of bulky items: two spaces plus one space per employee on largest shift;

98. Within the PD planned development zone: gift shops, personal services, professional offices, retail sales, visitor services and combined residence and businesses other than a home occupation: a minimum of three spaces for up to 500 square feet of gross floor area of the business; an additional one space per each additional 300 square feet of gross floor area of the business. This provision applies only in PD or planned development zones.

C. Required parking spaces shall be located on the same lot with the use to be served. Required parking shall not be located closer than 20 feet to the intersection of street rights-of-way. Where four or more dwellings are located on the same lot, outdoor parking shall not be closer than five feet to any on-site building and not closer than three feet to any side or rear lot line. Where more than four parking spaces are required, they shall not be located so as to require backing into the public street right-of-way. Where parking spaces or an aisle serving a parking facility is adjacent to the UR or SR zones, a sight-obscurer fence at least four feet high shall be provided.

D. Any parking facility of four or more vehicles, including access driveways and aisles, shall be graded and drained to dispose of surface water to the satisfaction of the city engineer, and shall be surfaced with concrete, asphaltic concrete, bituminous surface treatment or an equivalent satisfactory to the city engineer, and shall be maintained in good condition free of weeds, trash and debris. Individual parking spaces shall be designated by contrasting paint or markers.

E. Driveways providing access to a parking facility shall be at least 12 feet wide for each lane of travel, and aisles providing access to parking spaces shall be as follows:

1. One-way aisle serving angle parking less than 50 degrees, 12 feet wide;
2. One-way aisle serving angle parking 50 to 75 degrees, or two-way aisle serving angle parking less than 50 degrees, 18 feet wide;
3. Two-way aisle serving angle parking 50 degrees or more, or aisle serving more than 75-degree angle parking, 24 feet wide.

F. Parking facilities for nonresidential uses which will be used after dark shall be lighted; provided, that the light source shall be directed away from adjoining residential premises.

G. Required parking for residences and for uses requiring less than four parking spaces shall be graded and surfaced to provide an all-weather surface.

H. In the PD planned development zone, in lieu of providing parking facilities required by the provisions of this section, the requirements may be satisfied by payment to the city, prior to the issuance of the building permit, of an amount per parking space, prescribed by the council, for each parking space required by this section but not provided. The payment shall be deposited with the city in a special fund and shall be used, whenever possible, for the purpose of acquiring, developing, maintaining or enhancing parking facilities located, insofar as practical, in the vicinity of the use for which the payment is made. The council may decline to accept payment in lieu of providing parking facilities.








ORDINANCE 2022-XX, SECTION 6:

Section 17.60.030 shall be amended as follows:

17.60.030 Approval required for construction.

Relocation, construction, remodeling or additions to structures, and alterations of the natural contours of the land shall not be undertaken until approved by the planning commission. Approval need not be obtained for remodeling that does not affect the external profile or appearance of an existing structure. Approval need not be obtained for ADUs and JADUs that meet all applicable standards of TMC §§ 17.54.040 – 17.54.080 the Trinidad LCP, including TMC §§ 17.54.040 – 17.54.080. Approval need not be required for exterior painting and maintenance, accessory structures of less than 500 square feet in floor area and not less than 15 feet in height, changes in landscaping, and site excavation or filling more than 100 feet from any perennial stream or the mean high tide line which will not change the existing elevation more than two feet at any point, and if exempt from a coastal development permit as specified in TMC 17.72.070 and pursuant to any applicable categorical exclusions. [Ord. 2001-01 § 8, 2002; Ord. 84-180 § 3, 1984; Ord. 166 § 6.19, 1979].

EXPLANATION

-  **POTENTIAL MINISTERIAL ADU CDP'S**
-  **BLUFF EDGE BUFFER (125')**
-  **SOIL STABILITY BUFFER (100')**
-  **LOCAL JURISDICTION / ADMINISTRATIVE CDP'S**
-  **APPEAL AREA**
-  **INLAND**
-  **CITY LIMITS**

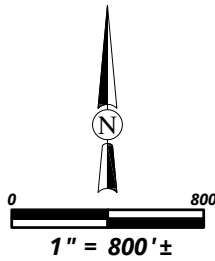
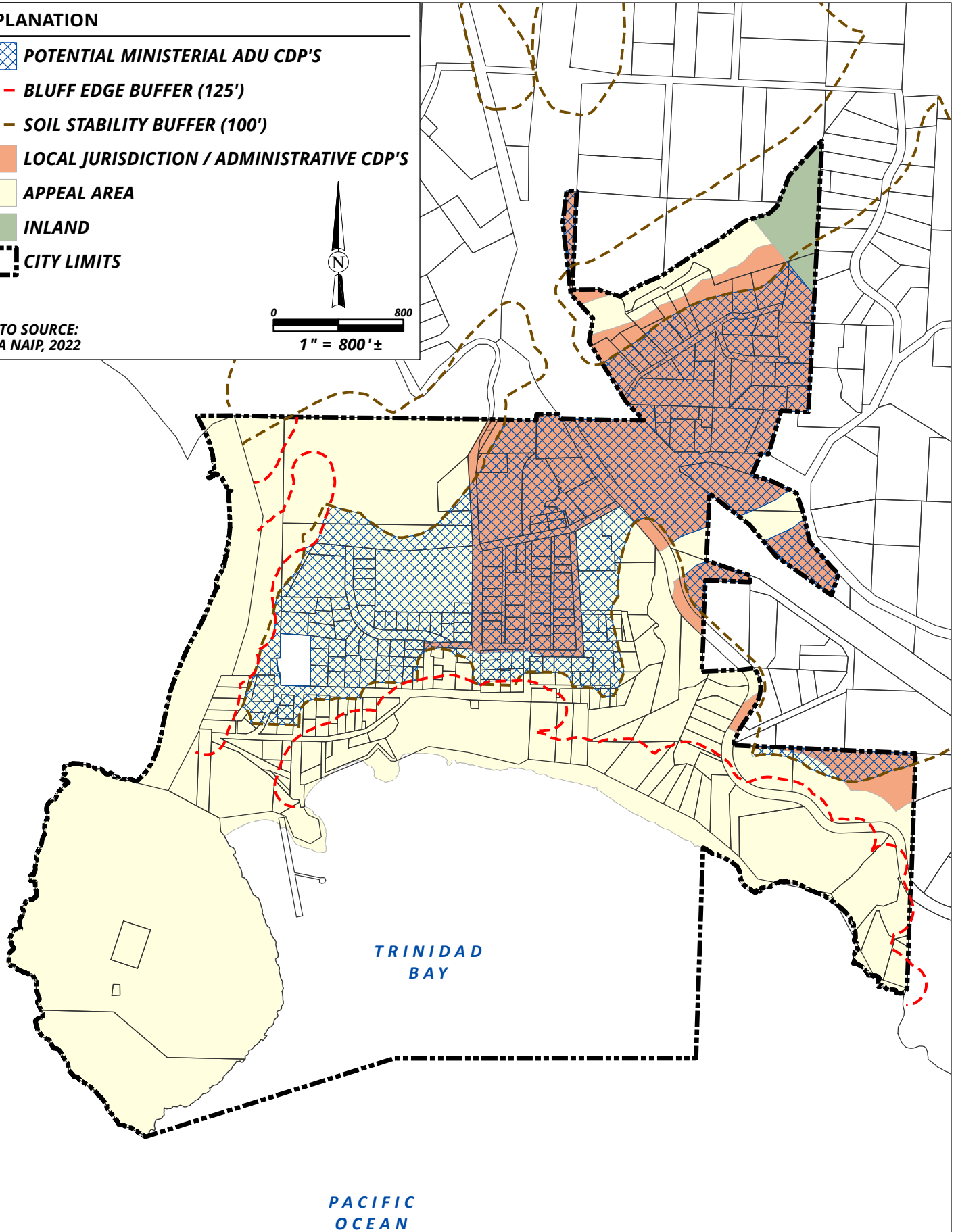


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City of Trinidad
Accessory Dwelling Units
Trinidad, California

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105-2421
VOICE (415) 904-5200
FAX (415) 904-5400



To: Planning Directors of Coastal Cities and Counties
From: John Ainsworth, Executive Director, California Coastal Commission
Date: January 21, 2022

RE: Updates Regarding the Implementation of New ADU Laws

I. Introduction

California's ongoing housing crisis continues to exacerbate housing inequity and affordability, especially in the coastal zone. To address this critical issue, the state Legislature has enacted a number of laws in the last several years that are designed to reduce barriers to providing housing and to encourage construction of additional housing units in appropriate locations. To this end, the 2019 legislative session resulted in a series of changes to state housing laws that facilitate the development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs), which can help provide additional housing units that can be more affordable than other forms of market rate housing. Importantly, the changes did not modify existing provisions of state housing law that explicitly recognize that local governments must still abide by the requirements of the Coastal Act, and by extension, Local Coastal Programs (LCPs). Thus, provisions on coastal resource protection must be incorporated into the planning and development process, and into updated LCP J/ADU requirements, when considering J/ADUs in the coastal zone.

The Coastal Commission strongly encourages local governments to update their LCPs with J/ADU provisions in a manner that harmonizes the State's housing laws with the Coastal Act. Doing so would protect the State's coastal resources while also reducing barriers to constructing J/ADUs and helping to promote more affordable coastal housing.

The Coastal Commission has previously circulated three memos to assist local governments with understanding how to carry out their Coastal Act obligations while also implementing state requirements regarding the regulation of J/ADUs. These memos have raised some questions for local governments, including the manner in which they are to be understood together. In order to address this issue, and to reflect lessons learned regarding J/ADU regulation in the coastal zone in the past few years, this updated memo supersedes and replaces these prior memos. This updated memo also elaborates on the changes to state housing laws that went into effect on January 1, 2020 and provides further information to help local governments harmonize these laws with the Coastal Act. This memo will briefly discuss the authority that the Coastal Act grants the Commission and local governments over housing in the coastal zone, new legislation regarding J/ADUs, how local governments can streamline J/ADU applications under the Coastal Act, and some key issues that should be considered when LCP amendments for J/ADU

provisions are undertaken. This memo is intended to provide general guidance for local governments with fully certified LCPs. The Coastal Commission is responsible for Coastal Act review of J/ADUs in most areas that are not subject to a fully certified LCP. Local governments that have questions about specific circumstances not addressed in this memo should contact the appropriate district office of the Commission.

II. Coastal Act Authority Regarding Housing in the Coastal Zone

The Coastal Act has a variety of provisions directly related to housing. Relevant here, the Coastal Act does not negate local government compliance with state and federal law “with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any other law hereafter enacted.” (Pub. Res. Code § 30007.) The Coastal Act also requires the Coastal Commission to encourage housing opportunities for low- and moderate-income households (Pub. Res. Code § 30604(f)) but states that “[n]o local coastal program shall be required to include housing policies and programs. (Pub. Res. Code § 30500.1.) Finally, new residential development must be “located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it” or in other areas where development will not have significant adverse effects on coastal resources. (Pub. Res. Code § 30250.)

While the Commission does not currently have the explicit authority to provide or protect affordable housing in the coastal zone, the Commission has continued to preserve existing density and affordable housing whenever possible, including by supporting and encouraging the creation of J/ADUs. The creation of new J/ADUs in existing residential areas is one of many strategies that aims to increase the housing stock, including creating additional housing units of a type and size that can be more affordable than other forms of housing in the coastal zone, in a way that may be able to avoid significant adverse impacts on coastal resources.

III. Overview of New Legislation

As of January 1, 2020, [AB 68](#), [AB 587](#), [AB 881](#), [AB 670](#), [AB 671](#), and [SB 13](#) collectively updated existing Government Code Sections 65852.2 and 65852.22 concerning local government review and approval of J/ADUs, and as of January 1, 2021, AB 3182 further updated the same laws, with the goal of increasing statewide availability of smaller, and potentially more affordable, housing units. Importantly, some of the changes affect local governments in the coastal zone and are summarized below.

- Local governments continue to have the discretion to adopt J/ADU provisions that are consistent with state law, and they may include specific requirements for protecting coastal resources and addressing issues such as design guidelines and protection of historic structures.
- Outside of an LCP context, existing or new J/ADU provisions that do not meet the requirements of the new legislation are null and void and will be substituted with the

provisions of Section 65852.2(a) until the local government comes into compliance with new provisions. (Gov. Code § 65852.2(a)(4).) However, existing J/ADU provisions contained in certified LCPs are not superseded by Government Code Section 65852.2 and continue to apply to Coastal Development Permit (CDP) applications for J/ADUs until the LCP is modified. Coastal jurisdictions without any J/ADU provisions or with existing J/ADU provisions that were adopted prior to January 1, 2020 are encouraged to update their LCPs to comply with the State's new laws. Such new or updated LCP provisions need to ensure that new J/ADUs will protect coastal resources in the manner required by the Coastal Act and LCP, including, for example, by ensuring that new J/ADUs are not constructed in locations where they would require the construction of shoreline protective devices, in environmentally sensitive habitat areas and wetlands, or in areas where the J/ADU's structural stability may be compromised by bluff erosion, flooding, or wave uprush over the structure's lifetime.

- A major change to Section 65852.2 is that the California Department of Housing and Community Development (HCD) now has an oversight role to ensure that local J/ADU provisions are consistent with state law. If a local government adopts an ordinance that HCD deems to be non-compliant with state law, HCD can notify the Office of the Attorney General. (Gov. Code § 65852.2(h)(3).) To ensure a smooth process, local governments should submit their draft J/ADU provisions to HCD and Coastal Commission staff to review for housing law and Coastal Act consistency before they are adopted locally and should continue to foster a three-way dialogue regarding any potential issues identified. Additionally, Coastal Commission and HCD staff meet regularly to discuss and resolve any issues that arise in the development of J/ADU provisions in the coastal zone. The Commission continues to prioritize J/ADU LCP amendments, and some may qualify for streamlined review as minor or de minimis amendments. (Pub. Res. Code § 30514(d); 14 Cal. Code Regs. § 13554.)
- In non-coastal zone areas, local governments are required to provide rapid, ministerial approval or disapproval of applications for permits to create J/ADUs, regardless of whether the local government has adopted updated J/ADU provisions. (Gov. Code § 65852.2(a)(3).) In the coastal zone, CDPs are still necessary in most cases to comply with LCP requirements (see below); however, a local public hearing is not required, and local governments are encouraged to streamline J/ADU processes as much as feasible.

Other recent legislative changes clarify that local J/ADU provisions may not require a minimum lot size; owner occupancy of an ADU (though if there is an ADU and a JADU, one of them must be owner-occupied); fire sprinklers if such sprinklers are not required in the primary dwelling; a maximum square footage of less than 850 square feet for an ADU (or 1,000 square feet if the ADU contains more than one bedroom); and in some cases, off-street parking. Section 65852.2(a) lists additional mandates for local governments that choose to adopt a J/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).) As indicated above, in specific cases coastal resource considerations may negate some such requirements, but only when tied to a coastal resource impact that would not be allowed under the Coastal Act and/or the LCP. In recent LCP amendments, these types of considerations have most often arisen in terms of the off-street parking provisions (see below).

IV. General Guidance for Reviewing J/ADU Applications

The following section lays out the general permitting pathway in which local governments can process J/ADU applications in a manner that is consistent with Coastal Act requirements and LCP provisions.

1) Check prior CDP history for the site.

Determine whether a CDP or other form of Coastal Act/LCP authorization was previously issued for development of the site and whether that CDP and/or authorization limits, or requires a CDP or CDP amendment for, changes to the approved development or for future development or uses of the site. The applicant should contact the appropriate Coastal Commission district office if a Commission-issued CDP and/or authorization affects the applicant’s ability to apply for a J/ADU.

2) Determine whether the proposed J/ADU constitutes “development.”

As defined by the Coastal Act, development refers to both “the placement or erection of any solid material or structure” on land as well as any “change[s] in the density or intensity of use of land[.]” (Pub. Res. Code § 30106.) Most J/ADUs constitute development if they include, for example, new construction of a detached ADU, new construction of an attached J/ADU, or conversion of an existing, uninhabitable, attached or detached space to a J/ADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the “placement or erection of solid material,” and the conversion of existing, uninhabitable space would generally constitute a “change in the density or intensity of use.” Therefore, these activities would generally constitute development in the coastal zone that requires a CDP or other authorization. (Pub. Res. Code § 30600.)

Unlike new construction, the conversion of an existing, legally established habitable space to a J/ADU within an existing residence, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure, may not constitute development within the definition in the Coastal Act. An example of a repurposed, habitable space that may not constitute new development (and thus does not require Coastal Act or LCP authorization) is the conversion of an existing bedroom within a primary structure.

Previously circulated Commission J/ADU memos (being superseded and replaced by this memo) indicated that construction or conversion of a J/ADU contained within or directly attached to an existing single-family residence (SFR) may qualify as development that was exempt from the requirement to obtain a CDP. Specifically, the Coastal Act and the Commission's implementing regulations identify certain improvements to existing SFRs that are allowed to be exempted from CDP requirements (Pub. Res. Code § 30610(a); 14 Cal. Code Regs § 13250.) Although the Commission has previously certified some LCP amendments that permitted certain exemptions for such ADU development, in a recent action, the Commission reevaluated its position and found that "the creation of a self-contained living unit, in the form of an ADU, is not an 'improvement' to an existing SFR. Rather, it is the creation of a new residence. This is true regardless of whether the new ADU is attached to the existing SFR or is in a detached structure on the same property." ¹ On this basis, and based on the finding that a variety of types of J/ADUs—including both attached and detached J/ADUs—could have coastal resource impacts that make exemptions inappropriate, it rejected the local government's proposed exemptions for certain J/ADUs. Local governments considering updating LCP J/ADU provisions should consider the Commission's recent stance regarding exemptions for ADUs and may work with Commission staff to determine the best way to proceed on this issue.

3) If the proposed J/ADU constitutes development, determine whether a CDP waiver or other type of expedited processing is appropriate.

If a local government's LCP includes a waiver provision, and the proposed J/ADU meets the criteria for a CDP waiver, the local government may issue a CDP waiver for the proposed J/ADU. The Commission has generally allowed a CDP waiver for proposed J/ADUs if the Executive Director determines that the proposed development is de minimis (i.e., it is development that has no potential for any individual or cumulative adverse effect on coastal resources and is consistent with all Chapter 3 policies of the Coastal Act). Such a finding can typically be made when the proposed J/ADU project has been sited, designed, and limited in such a way as to ensure any potential impacts to coastal resources are avoided (such as through habitat and/or hazards setbacks, provision of adequate off-street parking to ensure that public access to the coast is not impacted, etc.). (See Pub. Res. Code § 30624.7.) Projects that qualify for a CDP waiver typically allow for a reduced evaluation framework and streamlined approval.

Most, if not all, LCPs with CDP waiver provisions do not allow for waivers in areas where local CDP decisions are appealable to the Coastal Commission. There have been a variety of reasons for this in the past, including that the Commission's regulations require that local governments hold a public hearing for all applications for appealable development (14 Cal. Code Regs § 13566), and also that development in such areas tends to raise more coastal resource concerns and that waivers may therefore not be appropriate. However, under the state's J/ADU provisions, public hearings are not required for qualifying development.

¹ See Coastal Commission [staff report](#), pp. 16-17 (Commission acted on this item on December 17, 2021).

Because of this, the above-described public hearing issue would not be a concern, so it could be appropriate for LCPs to allow CDP waivers in both appealable and non-appealable areas at least related to this criterion. Local governments should consult with Commission staff should they consider proposing CDP waiver provisions in their LCP. Any LCP amendment applications that propose to allow waivers in appealable areas should ensure that there are appropriate procedures for notifying the public and the Commission regarding approvals of individual, appealable waivers (such as Final Local Action Notices) so that the proper appeal period can be set, and any appeals received are properly considered.

The Coastal Act also provides for other streamlined processing for certain types of development, including for minor development. (Pub. Res. Code § 30624.9.) In certain cases, categories of development can also be excluded from CDP requirements if certain criteria are met (see box). In any case, local governments without such CDP waiver and other processing and streamlining tools are encouraged to work with Commission staff to amend their LCP to include such measures.

Coastal Act section 30610(e) allows certain categories of development that are specified in Commission-approved Categorical Exclusion (Cat Ex) Orders to be excluded from CDP requirements, provided that the category of development has no potential for any significant adverse effect, either individually or cumulatively, on coastal resources. (See also 14 Cal. Code Regs §§ 13240 et seq.)

Cat Ex Orders apply to specific types of development within identified geographical locations. For example, the Commission may approve a Categorical Exclusion for J/ADUs that would normally require a CDP (i.e., it is defined as development) because that specific development type in that specific geographic area can be demonstrated to not result in individual and/or cumulative coastal resource impacts. Cat Ex Orders are prohibited from applying to: tide and submerged lands; beaches; lots immediately adjacent to the inland extent of any beach; lots immediately adjacent of the mean high tide line of the sea where there is no beach; and public trust lands.

Cat Ex Orders provide another potential means of streamlining J/ADU consideration, and interested local governments should consult with Commission staff if they intend to propose such an Order. Cat Ex Orders are processed separately from LCP amendments, require a 2/3 vote of the Commission to be approved, and are typically subject to conditions. Once approved, the local government is responsible for reviewing development that might be subject to the Cat Ex Order and is typically required to report any exclusions applied pursuant to the Order to the Commission for review by the Executive Director and for an appeal period before they can become effective. It is important to note that while Cat Ex Orders can be a powerful tool if approved, the Commission must be able to conclude that the specific category of development in a specific geographic area has no potential for any significant adverse coastal resources impacts in order to approve one. Thus, the local government pursuing a Cat Ex Order must provide supporting documentation and evidence that can conclusively show that to be the case.

4) If a full CDP is required, review CDP application for consistency with certified LCP requirements.

If a proposed J/ADU constitutes development and cannot be processed as a waiver or similar expedited Coastal Act approval authorized in the certified LCP, it requires a CDP. The CDP must be consistent with the requirements of the certified LCP and, where applicable, the public access and recreation policies of the Coastal Act. The local government must then provide the required public notice for any CDP applications for J/ADUs and process the application pursuant to LCP requirements, but should process it within the time limits contained in the ADU law, if feasible. However, local governments are not required to hold a public hearing on CDPs for ADUs. (Gov. Code § 65852.2(l).) Once the local government has issued a decision, it must send the required final local action notice to the appropriate district office of the Commission. If the CDP is appealable, a local government action to approve a CDP for the ADU may be appealed to the Coastal Commission. (Pub. Res. Code § 30603.)

V. Key Considerations

Per Government Code Section 65852.2, subd. (l), known as the Coastal Act Savings Clause, the State's new ADU requirements shall not be "construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976." There are a number of key issues that local governments should account for in order to ensure their LCP J/ADU provisions are consistent with the requirements in the Coastal Act. This section addresses some of the key issues that the Commission has dealt with recently, including public coastal access parking requirements and protection of sensitive habitats and visual qualities. Local governments are encouraged to contact their local Coastal Commission district office for further assistance.

Protection of public recreational access in relation to parking requirements

Government Code Section 65852.2 requirements regarding parking for J/ADUs are as follows:

- a. One parking space is required per unit or per bedroom, whichever is less. The parking space can be a tandem space in an existing driveway.
- b. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, no replacement parking space(s) are required.

However, Section 65852.2 further stipulates that the parking requirements listed above do not apply to ADUs constructed:

- a. Within ½ mile walking distance of public transportation stops/routes;
- b. Within a historic district;
- c. Within a primary residence or accessory structure;
- d. When on-street parking permits are required but not offered to the occupant of the ADU;

- e. And where a car-share vehicle is located within one block of the ADU.

Thus, the Government Code limits the circumstances when a local government can require a J/ADU project to address its parking needs onsite. This is a departure from most local government parking requirements which often explicitly specify the number of off-street parking spaces that must be provided onsite in any particular development, including residential development. The potential outcome is that private residential J/ADU parking needs can be shifted onto adjacent public streets. At the same time, the Coastal Act contains objectives and policies designed to protect and provide for maximum coastal access opportunities, which includes maintaining sufficient public coastal parking, including as implemented through LCP off-street parking provisions. The addition of J/ADUs may interfere with coastal public street parking availability if, for example, a garage is converted to a J/ADU and parking is not replaced onsite, in addition to the J/ADU parking demand itself. The Commission has often found that when private residential parking needs are not accommodated onsite, it can lead to increased use of on-street parking to address such needs, thereby reducing the availability of on-street parking to the general public. This may adversely affect public coastal access if it occurs in high visitor-serving areas and/or areas with significant public recreational access opportunities, and where on-street parking is heavily used. The result will be that the general public could be displaced from on-street parking by J/ADU parking needs, which may violate the Coastal Act's requirements to protect, provide, and maximize public coastal access and recreational opportunities. In many impacted coastal neighborhoods, development patterns over the years have not adequately accounted for off-street parking needs, and adding J/ADU parking to the mix will only exacerbate such public parking difficulties. Additionally, because general on-street parking is typically free or lower cost compared to other public parking facilities, J/ADU construction may also interfere with maintaining lower cost coastal access for all.

In order to avoid conflicts regarding parking requirements for J/ADUs as they may impact public access, local governments are encouraged to work with Commission staff to identify or map specific neighborhoods and locations where there is high visitor demand for public on-street parking needed for coastal access and to specify parking requirements for each such area that harmonizes Government Code requirements with the Coastal Act (and any applicable LCP policies). These maps can denote areas that supply important coastal public parking and access opportunities, and require that J/ADU development in these areas ensure that private residential parking needs are accommodated off-street. Importantly, such upfront LCP mapping and provisions allow the local government to address impacts to public access and parking supply without the need for a protracted, or even necessarily a discretionary, decision. The Commission has previously found that local governments may include specific off-street parking requirements for J/ADUs constructed in these locations and may also require maintenance of all off-street parking for the primary residence (see examples below). However, harmonizing the distinct priorities between the Coastal Act's protection of public coastal access and the J/ADU provisions on parking requirements will require a case-by-case consideration of the specific circumstances of each jurisdiction.

Protection of sensitive habitats and visual qualities; avoidance of hazards

While most J/ADU projects take place within established residential neighborhoods where potential coastal resource impacts are fairly limited, there can be cases where such projects may affect significant coastal resources, such as sensitive habitats and shorelines and beaches. As a general rule, LCPs include many provisions protecting such resources, and it is important that proposed J/ADU provisions are not structured to undo any such LCP protections that already apply. J/ADUs may need to be reviewed for specific siting and design standards, particularly in visually sensitive areas (such as the immediate shoreline, between the first public road and the sea, near LCP-designated scenic areas, etc.). Similarly, where sensitive habitat may be present, J/ADUs must be reviewed for impacts to such habitat, including with respect to fuel modification for defensible space. Additionally, local governments should include provisions for J/ADUs constructed in areas vulnerable to sea level rise and other coastal hazards which ensure not only that these structures will meet all LCP requirements for new development to be safe from such hazards, but that also addresses the need for future sea level rise adaptations (including future accommodation or removal, risk disclosure conditions on the J/ADU, and any other risk-related issues dealt with in the LCP).

VI. Examples of Recently Updated ADU Provisions in Certified LCPs

A number of local jurisdictions have recently updated their LCPs to include new J/ADU provisions. Coastal Commission staff reports are linked below, which summarize specific issues that arose between Coastal Act requirements and the new J/ADU provisions as well as the necessary changes that were made in order to harmonize each jurisdiction's LCP with the State's housing laws. The suggested modifications shown in the staff reports were all approved by the Coastal Commission.

[City of Santa Cruz \(approved May 2021\)](#). This LCP amendment included clarifying language to address which provisions of the new state housing laws applied to ADUs in the coastal zone of the City of Santa Cruz as well as ensuring that the coastal resource protection provisions of the City's current LCP are maintained. The amendment also addressed specific off-street parking requirements for ADUs sited near significant coastal visitor destinations. The City of Santa Cruz adopted the Commission's modifications in August 2021.

[City of Pacifica \(approved June 2021\)](#). This LCP amendment revised the City's Implementation Plan to incorporate J/ADU provisions that are in line with the updated state housing laws, including streamlined procedures for J/ADU review and permitting processing, providing J/ADU development standards, and crafting tailored modifications to address specific public access parking needs in key visitor destination areas. The City of Pacifica adopted the Commission's modifications in August 2021.

[County of San Mateo \(approved July 2021\)](#). This LCP amendment incorporated more specific ADU regulations relating to size limits, maximum number of J/ADUs permitted per lot, streamlined review and process of J/ADU permits, and parking availability in areas that are

significant coastal visitor destinations. The County of San Mateo adopted the Commission's modifications in September 2021.

City of Encinitas (approved August 2021). The Coastal Commission approved revisions to the City of Encinitas' Implementation Plan that updated existing definitions for ADUs and JADUs and clarified development standards for accessory units, including standards for size, height, and setbacks.

City of Santa Barbara (approved December 2021). The Coastal Commission approved Commission staff's revision of the City of Santa Barbara's LCP amendment submittal addressing updated ADU provisions to be consistent with state housing laws. The amendment revised J/ADU terms and definitions, building standards, parking requirements, and permitting review and processing procedures. The staff report included modifications that address the CDP exemption issue (discussed above).

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