

**MEMORANDUM**

**DATE** 11/15/16  
**TO** Corte Madera Town Council  
**FROM** Corte Madera Planning Department  
**RE** Proposed Modifications to Draft Ordinance 961 (ADU) and 962 (JADU)

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This memo outlines four modifications to draft Ordinance 961 (Accessory Dwelling Units) and one modification to draft Ordinance 962 (Junior Accessory Dwelling Units) that Staff is recommending the Town Council introduce at tonight’s Town Council meeting. The proposed modifications result from additional Staff review of the proposed Zoning Ordinance Amendments and the new State laws since the Planning Commission’s adoption of Resolution 16-030 on October 25, 2016. Exhibit A and Exhibit B, attached to this memo, include completely revised draft Ordinances which incorporate the following changes in addition to those identified in the staff report:

1) Minimum Unit Size

Resolution 16-030, passed by the planning commission on October 25, 2016, specifies a minimum unit size of 220 square feet for an accessory dwelling unit. State law establishes a maximum floor area for detached units (1,200 sq. ft.), no maximum floor area for attached units, and no minimum floor area for either attached or detached units. There is some discrepancy between Health and Safety Code and California Building Code in terms of minimum dwelling unit sizes. Staff believes specifying a minimum unit size is potentially problematic given the present inconsistency between the different State codes. Additionally, Staff notes that it is unnecessary to specify a minimum unit size if the intention is to allow for the minimum unit size allowed by code, as intended here. Staff recommends that a minimum unit size be eliminated from the Ordinance.

SECTION: Modification of 18.31.050 (9)

ACTION: Remove minimum square footage as shown below:

*18.31.050 (9) Size of Unit. The floor area of ~~second~~ accessory dwelling units shall not be smaller than three hundred fifty gross square feet, nor larger than ~~seventy~~ twelve hundred fifty gross square feet.*

2) Maximum Additional Floor Area – Attached Units

The following requirement is established by Government Code Section 65852.2 and was not included in the prior draft ordinance. Staff recommends the addition of this language to maintain consistency with state law.

SECTION: Addition to 18.31.050

ACTION: Add 18.31.050 (15) as follows:

18.31.050 (15) “The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.”

### 3) Change to Definitions

Staff recommends the following change to improve clarity and internal consistency within the Zoning Ordinance:

SECTION: Modification of 18.04.215

ACTION: Strike existing definition of “Dwelling unit, additional” and replace with the following:

*18.04.215 - Dwelling unit, additional.*

*~~“Additional dwelling unit” means a detached building, accessory structure or a portion of the primary dwelling unit which has sleeping, cooking and sanitation facilities separate from the primary dwelling unit. May also be referred to as “second unit,” “mother in law” or “granny” unit. “See “Accessory Dwelling Unit””~~*

### 4) Applicability of Christmas Tree Hill Limitations on ADUs and JADU

Notwithstanding limitations on the number of ADUs allowed on Christmas Tree Hill pursuant to the Christmas Tree Hill Overlay District (Section 18.18.400 of the CMMC), Staff believes the new provisions of State law incorporated into Section 65852.2(e) prohibit the Town from precluding or limiting ADUs from any area of Town, including Christmas Tree Hill, if the ADU is “contained within the existing space of a single-family residence or accessory structure.” Therefore, Christmas Tree Hill regulations limiting ADUs would continue to apply only to newly constructed detached ADUs or ADUs created as part of an expansion of an existing single family home or accessory structure, but not to ADUs “contained within the existing space of a single-family residence or accessory structure.”

Additionally, given JADUs, by definition, are required to be within an existing single-family structure, and therefore meet the provisions of Section 65852.2(e) of the State law pertaining to ADUs, Staff believes it is difficult to justify limiting such units in Christmas Tree Hill.

As a result of the above, Staff has modified proposed language in both the ADU and JADU ordinances as shown below:

#### ADU Ordinance 961

SECTION: Modifications of 18.31.060 - Christmas Tree Hill overlay district.

ACTION: Add exemption of Christmas Tree Hill Overlay regulations for specific types of ADUs:

*18.31.060 – Christmas Tree Hill overlay district.*

*The total number of accessory dwelling units in the Christmas Tree Hill overlay district shall not exceed the total number permitted by Sections 18.18.405(K) and 18.18.410 of this title. This provision shall not apply to accessory dwelling units contained within the existing space of a single-family residence or accessory structure.*

JADU Ordinance 962

SECTION: Modification of 18.31.150 H

ACTION: Revise proposed provision related to JADUs on Christmas Tree Hill

~~*H. — The total number of junior accessory dwelling units in the Christmas Tree Hill overlay district shall not exceed the total number of additional units permitted by Sections 18.18.405(K) and 18.18.410 of this title.*~~

*N. — Junior accessory dwelling units shall be exempt from Sections 18.18.405(K) and 18.18.410 of this title.*

EXHIBIT A

ORDINANCE NO. 961

**ORDINANCE NO. 961**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA  
ADOPTING AMENDMENTS TO TITLE 18 OF THE CORTE MADERA  
MUNICIPAL CODE TO AMEND: (1) CHAPTER 18.31 – SECOND UNITS (2) 18.04 –  
DEFINITIONS (3) 18.20 – OFF-STREET PARKING AND LOADING (4) 18.108 R  
RESIDENTIAL DISTRICTS**

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**WHEREAS**, homeowners who create accessory dwelling units benefit from added income, and an increased sense of security; and

**WHEREAS**, allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock; and

**WHEREAS**, the availability of housing is a substantial concern for individuals of all demographics, ages, and economic backgrounds in communities throughout the State of California; and

**WHEREAS**, accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character; and

**WHEREAS**, the 2009 General Plan, and 2011 and 2015 Housing Element updates included policies and programs to support and create affordable housing, a diverse range of housing types and implementation through the adoption of amendments to the Corte Madera Zoning Ordinance; and

**WHEREAS**, the State of California has established that a local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones and that ordinance shall designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted and the designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety; and

**WHEREAS**, it is the intent of the Town Council to adopt amendments to the existing accessory dwelling unit ordinance which has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance; and

**WHEREAS**, in 2016, the Legislature passed new laws including AB 2299 and SB 1069 intended to increase the number of accessory dwelling units by simplifying the approval process and reducing costs associated with their creation, creates new standards and regulations modifying the Town's ability to regulate Accessory Dwelling Units; and

**WHEREAS**, the Town adopted the Christmas Tree Overlay District in 1994 (as set forth in Section 18.18 of the Town of Corte Madera Municipal Code [CMCC]) and, at that time recognized the unique development conditions of Christmas Tree Hill which include

- (1) The roads on Christmas Tree Hill are steep, narrow and winding;
- (2) There are many small developed lots with severely limited off-street parking;
- (3) Christmas Tree Hill is heavily vegetated and developed with numerous older, wooden structures resulting in high fuel loading and severe fire hazard;
- (4) The road configuration and proliferation of on-street parking limit emergency access to all Christmas Tree Hill residents and property, as well as evacuation of residents in the event of fire, natural disaster, or other emergency;
- (5) Infrastructure facilities, including drainage and roads, are limited in their ability to accommodate additional development, including, but not limited to, residential expansions, new residential units and additional dwelling units; and

**WHEREAS**, in acknowledgement of these unique conditions, CMMC Section 18.18.400 limits the number of additional dwelling units within Christmas Tree Hill to avoid jeopardizing the health and safety of persons residing in the area related to traffic flow, fire hazards and emergency evacuation, and infrastructure capacity; and

**WHEREAS**, the proposed Zoning Code amendments comply with the legislative amendments made in 2016, to State Law Section 65852.2 which establishes standards for the development of accessory dwelling units so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with the existing neighborhood; and

**WHEREAS**, the amendments are within the scope of the Program EIR for the 2009 General Plan and no further environmental review is required for adoption of the zoning ordinance amendments pursuant to the California Environmental Quality Act (CEQA) Guidelines sections 15168 and 15162.; and

**WHEREAS**, based on the record, the Town Council finds that the Zoning Ordinance amendments are consistent with and facilitate the implementation of the Housing Element and the General Plan; and

**WHEREAS**, on October 13, 2016, the Planning Commission held a public hearing, received the staff report and a reviewed a presentation from the Planning Department, and received comments from the public and interested parties and continued the matter for further consideration to October 25, 2016; and

**WHEREAS**, on October 14, 2016, notice of the Planning Commission public hearing was published in the Marin Independent Journal in compliance with California Government Code Section 65090 and posted in public places throughout Town; and

**WHEREAS**, on October 25, the Planning Commission held a public hearing, received the staff report and reviewed a presentation from the Planning Department and received comments from the public and interested parties, and

**WHEREAS**, by Resolution No. 16-30, the Planning Commission did consider and recommend, by a vote of 4-0 (with one absent) that the Town Council adopt amendments to the Town of Corte Madera Zoning Ordinance; and

**WHEREAS**, November 2, 2016, notice of the Corte Madera Town Council public hearing on the proposed Zoning Ordinance amendments was sent by email to all those who signed up for Planning and Building Weekly Newsletter newsflash items, was posted at the Town's fire stations, Town Hall, library and post office, and was posted to the Town's website; and

**WHEREAS**, November 4, 2016, notice of the Town Council public hearing was published in the Marin Independent Journal in compliance with California Government Code Section 65090, and

**WHEREAS**, on November 15, 2016, the Town Council of the Town of Corte Madera conducted a public hearing on the item, and considered all oral and written comments submitted to the Town regarding the same prior to taking its actions on the item.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1. Recitals**

The foregoing recitals are true and correct and are incorporated into the findings herein.

**Section 2. Record**

The Record of Proceedings ("Record") upon which the Planning Commission makes its recommendation includes, but is not limited to:

(1) the 2009 General Plan, (2) the FEIR certified for the 2009 General Plan, including the appendices and technical reports cited in and/or relied upon in preparing the FEIR, (3) the Housing Element updated adopted by the Town Council in 2015, including the adopted environmental determination (4) all staff reports, Town files and records and other documents prepared for and/or submitted to the Town Council related to the adoption of Zoning Ordinance amendments.

**Section 3. Compliance with the California Environmental Quality Act (CEQA)**

Based on the Record, the Town Council finds the Zoning Ordinance Amendments are not subject to CEQA. The amendments are within the scope of the Program EIR for the 2009 General Plan and the Planning Department recommends that no further environmental review is required for adoption of the zoning ordinance amendments pursuant to the California Environmental Quality Act (CEQA) Guidelines sections 15168 and 15162.

**Section 4. General Plan Consistency**

The Town Council of the Town of Corte Madera hereby finds that the proposed Zoning Ordinance amendments to Chapter 18.04, 18.08, 18.20 and 18.31, are in the best interest of the

Town because they further established goals, policies and implementation programs of the General Plan to promote housing opportunities, maintain a diverse range of housing options, providing infill housing that is potentially affordable, encouraging the improvement of existing housing stock while preserving quality of life in residential zones. The ordinance amendments also implement specific policies of the Housing Element by modifying and improving the existing accessory dwelling unit provisions to ensure consistency with state code.

The amendments specifically are consistent with and implement the following General Plan and Housing Element policies and programs:

*Goal H-2 Use land efficiently and sustainably. Develop a variety of housing to meet community needs and to promote sustainability.*

*Policy H-1.4 Variety of Housing Choices. In response to the broad range of housing needs in Corte Madera, the Town will strive to achieve a mix of housing types, densities, affordability levels and designs. The town will work with developers of nontraditional and innovative housing approves in financing, design, construction and types of housing to meet local housing needs.*

*Policy H-2.1 Housing to meet local needs. Provide for the development of new housing to meet the diverse economic and physical needs of existing residents and projected population capacity by planning for adequate sites and supporting programs to achieve Corte Madera's Regional Housing Needs Allocation.*

*Policy H-2.15 Second dwelling units. Encourage well designed, legal second units in all residential neighborhoods.*

*Policy H-2.16 Second Dwelling Units in New Development. Require new second units as part of new detached single-family dwelling subdivision development where five or more new units are proposed.*

*Implementation Program H-2.15.a Second Unit Ordinance. Continue to implement the second unit ordinance.*

*Implementation Program H-2.15.c Second Unit Fees. Encourage the development of second units by waiving or reducing fees as follows: consider waiver or reduction of the second unit permit application fee. Work with special districts, e.g. water and sanitary, to reduce or waive connection and/or service fees.*

**Section 5. Amendment To The Corte Madera Municipal Code.** Subsection 18.04 is amended, as shown in strike-out (deleted) and underline (added text, as follows:

18.04.007 – Accessory Dwelling Unit

“Accessory dwelling unit” means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.

18.04.210 - Dwelling unit.

"Dwelling unit" means a building or portion of a building containing one or more rooms,

a separate bathroom, and a kitchen, access to a bathroom, and designed for occupancy by one family for living and/or sleeping purposes, including nonpaying guests and servants employed on the premises.

18.04.215 - Dwelling unit, additional.

~~"Additional dwelling unit" means a detached building, accessory structure or a portion of the primary dwelling unit which has sleeping, cooking and sanitation facilities separate from the primary dwelling unit. May also be referred to as "second unit," "mother in law" or "granny" unit. See "Accessory Dwelling Unit."~~

**Section 6. Amendment To The Corte Madera Municipal Code.** Subsection 18.08.020 is amended, as shown in strike-out (deleted) and underline (added) text, as follows:

18.08.020 - Permitted and conditional uses in residential districts.

Permitted Uses	Multiple Dwelling R-3 and R-2	Medium Density R-1	Low Density R-1-A	Very Low Density R-1-B	Open Residential R-1-C
(11) One <del>second unit</del> <u>accessory dwelling unit</u> which conforms with the size and standards of Chapter 18.31 of this title	X	X	X	X	X

**Section 7. Amendment To The Corte Madera Municipal Code.** Subsection 18.20.030 Is Amended, As Shown In Strike-Out (Deleted) And Underline (Added) Text, As Follows:

18.20.030 - Required number of parking spaces.

Use	Requirement
<u>Accessory Dwelling Unit</u> <del>Second unit</del>	<ul style="list-style-type: none"> <li>- <u>One parking space shall be required for each bedroom of the proposed accessory dwelling unit in addition to those required for the primary unit.</u></li> <li>- <u>The required parking spaces for the accessory dwelling unit may be uncovered. If an accessory dwelling unit requires two additional on-site parking spaces, they may be uncovered and in tandem with each other.</u></li> <li>- <u>Parking for an accessory dwelling unit shall not be in tandem with parking for the primary unit on the site. With the approval of the town engineer, one of the parking spaces for an accessory dwelling unit may be located within the front setback between an existing driveway and the closest side of the property line if the slope of the site is ten percent or less.</u></li> <li>- <u>When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those off-street parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.</u></li> <li>- <u>Onsite parking is not required for an accessory dwelling unit in any of the following instances:</u> <ul style="list-style-type: none"> <li>(1) <u>The accessory dwelling unit is located within one-half mile of public</u></li> </ul> </li> </ul>

	<p><u>transit.</u></p> <p><u>(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.</u></p> <p><u>(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.</u></p> <p><u>(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.</u></p> <p><u>(5) When there is a car share vehicle located within one block of the accessory dwelling unit.</u></p> <p>The following additional parking must be provided for all second units: one parking space per bedroom</p> <p>On any site, parking spaces provided for a second unit may be uncovered. If a second unit requires two additional on-site parking spaces, they may be uncovered and in tandem with each other, provided that neither parking space intrudes into the public right of way. Parking for a second unit shall not be in tandem with parking for the primary unit on the site. If the slope of the site is ten percent or less within the front yard setback, one parking space for a second unit may be located within the front setback between an existing driveway and the closest side property line, if acceptable to the town engineer</p>
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**Section 8. Amendment To The Corte Madera Municipal Code.** Subsection 18.31 Is Amended, As Shown In Strike-Out (Deleted) And Underline (Added) Text, As Follows:

Chapter 18.31 - ~~SECOND~~ACCESSORY DWELLING UNITS

Sections:

18.31.010 - Purpose.

The purpose of this chapter is to comply with amendments made in ~~2002~~2016, to California Government Code Section 65852.2 which provides for local jurisdictions to set standards for the development of ~~second~~accessory dwelling units so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with the existing neighborhood.

(Ord. 886 § 6 (part), 2004)

18.31.020 - ~~Second~~Accessory dwelling unit permit required.

~~The zoning administrator or his/her designee shall issue a second~~an accessory dwelling unit permit as a ministerial permit to allow for a second~~an accessory dwelling unit; provided, that a completed application is submitted which demonstrates that the second~~accessory dwelling unit complies with the requirements contained in this chapter. In addition to a second~~an accessory dwelling unit permit, the applicant shall be required to obtain a building permit prior to the construction of the second~~accessory dwelling unit.

(Ord. 886 § 6 (part), 2004)

18.31.030 - Definition.

~~An second~~ “Accessory dwelling unit is” means an attached or a detached residential dwelling unit, attached or detached from the primary dwelling unit, and having which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation facilities separate from the primary on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit. “Cooking, as defined in Section 17958.1 of Health and Safety Code as follows,

“Notwithstanding Sections 17922, 17958, and 17958.5, a city or county may, by ordinance, permit efficiency units for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or bathroom facilities” are defined, as any combination of specified by the following: sink, ordinance. In all other than respects, these efficiency units shall conform to minimum standards for those occupancies otherwise made applicable pursuant to this part.”

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code as follows,

“Manufactured home,” for the purposes of this part, means a structure that appurtenant to a bathroom, food storage and preparation areas, refrigerator, stove, microwave oven, convection oven, cooking burners or similar appliances which may reasonably was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used for the preparation of food, as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).[FN1]

(C) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(Ord. 886 § 6 (part), 2004)

18.31.040 - Allowed use.

~~Second~~ Accessory dwelling units shall be allowed as permitted uses in the R-1-C open residential, R-1-B very low density, R-1-A low density, R-1 medium density and the R-2 low density and R-3 high density multiple-dwelling districts; provided, that the submitted application satisfies the requirements set forth in this chapter.

(Ord. 886 § 6 (part), 2004)

18.31.050 - ~~Second~~ Accessory dwelling unit regulations.

~~Second~~Accessory dwelling units shall be subject to the following regulations:

- (1) No more than one ~~second~~accessory dwelling unit may be constructed on any site. ~~A second~~An accessory dwelling unit shall not be allowed on a site with more than one unit.
- (2) Owner Occupancy. One of the dwelling units on the site shall be owner-occupied. For purposes of this section, "ownership" is defined as a majority (i.e., fifty-one percent or greater) interest in the property in question. Property owned in joint tenancy shall be considered single ownership for any party named. Property owned in tenancy in common shall be considered a single ownership for any party named, unless shares are specified, in which case "ownership" requires a majority interest.
- (3) Zoning Development Standards. The ~~second~~accessory dwelling unit shall comply to all development standards included in the underlying zoning district, including standards for lot coverage, setbacks, height and the like.
- (4) Separate Entry, Kitchen and Bathroom. The ~~second~~accessory dwelling unit shall contain a separate entrance, kitchen and bathroom; both the existing dwelling and the ~~second~~accessory dwelling unit shall comply at a minimum with all requirements of the current housing code; and the ~~second~~accessory dwelling unit shall comply with the building code in effect at the time it was constructed.
- (5) Location of ~~Second Unit~~Accessory dwelling unit. The ~~second~~accessory dwelling unit may be within, attached to, or detached from the primary dwelling unit. If detached, the ~~second~~accessory dwelling unit shall be separated from the primary dwelling and any accessory structure(s) a minimum of three feet.
- (6) Architectural Compatibility. The ~~second~~accessory dwelling unit shall comply with the following design standards:
  - (A) Architectural Style and Form. Architectural style and building form shall match the style and form of the main building on the site.
  - (B) Architectural Details. Architectural details, including but not limited to, windows, roof pitch, and trim shall match the main building on the site.
  - (C) Color. The color of the ~~second~~accessory dwelling unit shall match the color of the main building on the site.
  - (D) Materials. The materials of the ~~second~~accessory dwelling unit shall match the materials of the main building on the site.
  - (E) Lighting. Lighting shall be shielded and/or directed so that it does not glare off-site or illuminate onto adjacent and nearby property.
  - (F) Privacy. Windows shall be located to avoid line of sight to windows of adjacent properties. Obscured glass and other techniques may be used to avoid line of sight.
  - (G) Views. The ~~second~~accessory dwelling unit shall not increase a blockage of any view of the bay or Mount Tamalpais caused by the main building on the property as viewed from the main building on an adjacent property.

(H) Sunlight. The ~~second~~accessory dwelling unit shall not increase the shadow on any window of the main building on any adjacent property. The shadow shall be measured on the winter solstice between the hours of ten a.m. and four p.m.

(I) Landscaping. Any tree over 30 inches in circumference, removed in conjunction with the construction of an ADU must be replaced by a 24” box tree within the yard from which it will be removed.

(7) Parking. Parking on the site shall conform to the requirements for ~~second~~accessory dwelling units as contained in Chapter 18.20, Off-Street Parking and Loading.

~~One additional~~ parking space shall be required for each bedroom of the proposed ~~second~~accessory dwelling unit, in addition to those required for the primary unit.

- The required parking spaces for the ~~second~~accessory dwelling unit may be uncovered. If a ~~second~~an accessory dwelling unit requires two additional on-site parking spaces, they may be uncovered and in tandem with each other; ~~provided, that neither parking space intrudes into the public right-of-way.~~ Parking for a second.

- Parking for an accessory dwelling unit shall not be in tandem with parking for the primary unit on the site. With the approval of the town engineer, one of the parking spaces for a ~~second~~an accessory dwelling unit may be located within the front setback between an existing driveway and the closest side of the property line if the slope of the site is ten percent or less. ~~The zoning administrator may reduce the parking requirement for a second unit by one parking space if the subject property is located within one quarter mile of a transit route.~~

~~When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those off-street parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.~~

~~Onsite parking is not required for an accessory dwelling unit in any of the following instances:~~

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

- (8) Permanent Foundation. A permanent foundation shall be required for all ~~second~~accessory dwelling units.
- (9) Size of Unit. The floor area of ~~second~~accessory dwelling units shall not be ~~smaller than three hundred fifty gross square feet, nor larger than seven~~twelve hundred fifty gross square feet.
- (10) Elevation. If the elevation of the existing main house on the site is below the Town's base flood elevation 9.7 NAVD, then the floor level of the ~~second~~accessory dwelling unit shall be at least as high as the elevation of the existing main house.
- (11) Street Address Required. Street addresses shall be assigned to all ~~second~~accessory dwelling units to assist in emergency response. (Ord. 886 § 6 (part), 2004)
- (12) The accessory dwelling unit is not intended for sale separate from the primary residence and may be rented.
- (13) No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
- (14) The accessory dwelling unit shall not be rented for less than 30 days.
- (15) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(Ord. No. 910, § 37, 4-21-2009)

18.31.060 - Christmas Tree Hill overlay district.

The total number of ~~second~~accessory dwelling units in the Christmas Tree Hill overlay district shall not exceed the total number permitted by Sections 18.18.405(K) and 18.18.410 of this title. This provision shall not apply to accessory dwelling units contained within the existing space of a single-family residence or accessory structure.

(Ord. 886 § 6 (part), 2004)

18.31.070 - Deed restriction.

The town shall require the property owner to record a deed restriction in the official records of Marin County, California requiring owner-occupancy of the unit of either the primary unit or ~~second~~accessory dwelling unit at all times. Proof of recordation shall be submitted to the planning division prior to issuance of a building permit. ~~A second~~An accessory dwelling unit shall not be sold independently of the primary dwelling on the parcel.

(Ord. 886 § 6 (part), 2004)

18.31.080 - Procedures.

An application for ~~a second~~ an accessory dwelling unit permit shall be filed with the planning department. No public hearing shall be required but a courtesy notice shall be given in the manner prescribed in Chapter 18.36, Administration, at least ten days prior to a decision.

(Ord. 886 § 6 (part), 2004)

18.31.090 - ~~Appeals~~ Administrative Review.

The decision of the planning director granting or denying a second an accessory dwelling unit permit may be appealed is a ministerial decision as required by State law. Ministerial approvals are not subject to review at a public hearing. In considering accessory dwelling unit permits, review is limited to the objective standards and criteria established by the town as set forth in Section 18.31.050 of this chapter for accessory dwelling units related to parking, height, setback, lot coverage, landscape, architectural review, maximum unit size, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places. A request for an Administrative review that is limited to the objective standards and criteria for accessory dwelling units (18.31.050) may be made in by filing an application and paying applicable fees with the Planning Department. Any application for administrative review must be filed with the planning department within ten calendar days of the date that the decision of the zoning administrator or planning commission and then to the town council in accordance with the procedures contained in Chapter 18.34, Appeals. Proceedings was made, whichever is applicable. Any Administrative Review proceedings before the planning commission and/or the town council shall not be deemed public hearings. In considering second unit permit appeals, the The planning commission and the town council shall apply the criteria contained in Section 18.31.050 of this chapter and shall apply those criteria in an objective and ministerial manner. All costs of the proceedings shall be the responsibility of the party requesting review. The Administrative Reviews should be scheduled so as to minimize delay of review or approval of an accessory dwelling unit.

(Ord. 886 § 6 (part), 2004)

**Section 9. Severability**

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

The Town Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional on their face or as applied.

**Section 10. Effective Date**

This ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

**Section 11. Posting**

The Town Clerk shall cause a summary of this ordinance to be published in the Marin Independent Journal within 5 days prior to passage and within 15 days after passage.

\* \* \* \* \*

This ordinance was introduced on the 15<sup>th</sup> day of November, 2016, and adopted on the XXth day of XXXX, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSED:

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SLOAN C. BAILEY

ATTEST:

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REBECCA VAUGHN  
TOWN CLERK

EXHIBIT B  
ORDINANCE NO. 962

**ORDINANCE NO. 962**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA  
ADOPTING AMENDMENTS TO TITLE 18 OF THE CORTE MADERA  
MUNICIPAL CODE TO AMEND: (1) CHAPTER 18.31 – SECOND UNITS (2) 18.04 –  
DEFINITIONS (3) 18.08 - R RESIDENTIAL DISTRICTS TO ESTABLISH JUNIOR  
ACCESSORY DWELLING UNITS**

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**WHEREAS**, homeowners who create accessory dwelling units benefit from added income, and an increased sense of security; and

**WHEREAS**, allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock; and

**WHEREAS**, the availability of housing is a substantial concern for individuals of all demographics, ages, and economic backgrounds in communities throughout the State of California; and

**WHEREAS**, accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character; and

**WHEREAS**, the 2009 General Plan, and 2011 and 2015 Housing Element updates included policies and programs to support and create affordable housing, a diverse range of housing types and implementation through the adoption of amendments to the Corte Madera Zoning Ordinance; and

**WHEREAS**, the State of California has established that a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family and multifamily residential zones and that ordinance shall designate areas within the jurisdiction of the local agency where junior accessory dwelling units may be permitted and the designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety; and

**WHEREAS**, it is the intent of the Town Council to adopt a junior accessory dwelling unit ordinance which has the effect of providing for the creation of junior accessory dwelling units and that provisions in this ordinance relating to matters including unit size, utility provisions, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create junior accessory dwelling units in zones in which they are authorized by local ordinance; and

**WHEREAS**, the Town adopted the Christmas Tree Overlay District in 1994 (as set forth in Section 18.18 of the Town of Corte Madera Municipal Code [CMCC]) and, at that time recognized the unique development conditions of Christmas tree hill which include

- (1) The roads on Christmas Tree Hill are steep, narrow and winding;
- (2) There are many small developed lots with severely limited off-street parking;

- (3) Christmas Tree Hill is heavily vegetated and developed with numerous older, wooden structures resulting in high fuel loading and severe fire hazard;
- (4) The road configuration and proliferation of on-street parking limit emergency access to all Christmas Tree Hill residents and property, as well as evacuation of residents in the event of fire, natural disaster, or other emergency;
- (5) Infrastructure facilities, including drainage and roads, are limited in their ability to accommodate additional development, including, but not limited to, residential expansions, new residential units and additional dwelling units; and

**WHEREAS**, in acknowledgement of these unique conditions, CMMC Section 18.18.400 limits the number of additional dwelling units within Christmas Tree Hill to avoid jeopardizing the health and safety of persons residing in the area related to traffic flow, fire hazards and emergency evacuation, and infrastructure capacity; and

**WHEREAS**, the proposed Zoning Code amendments comply with State Code Section 65852.22 which establishes standards for the creation of junior accessory dwelling unit ordinances; and

**WHEREAS**, the amendments are within the scope of the Program EIR for the 2009 General Plan and no further environmental review is required for adoption of the zoning ordinance amendments pursuant to the California Environmental Quality Act (CEQA) Guidelines sections 15168 and 15162; and

**WHEREAS**, based on the record, the Planning Commission finds that the Zoning Ordinance amendments are consistent with and facilitate implementation of the Housing Element and the General Plan; and

**WHEREAS**, on October 13, 2016, the Planning Commission held a public hearing, received the staff report and a reviewed a presentation from the Planning Department, and received comments from the public and interested parties and continued the matter for further consideration to October 25, 2016; and

**WHEREAS**, on October 14, 2016, notice of the Planning Commission public hearing was published in the Marin Independent Journal in compliance with California Government Code Section 65090 and posted in public places throughout Town; and

**WHEREAS**, on October 25, the Planning Commission held a public hearing, received the staff report and reviewed a presentation from the Planning Department and received comments from the public and interested parties, and

**WHEREAS**, by Resolution No. 16-30, the Planning Commission did consider and recommend, by a vote of 4-0 (with one absent) that the Town Council adopt amendments to the Town of Corte Madera Zoning Ordinance; and

**WHEREAS**, on November 2, 2016, notice of the Corte Madera Town Council public hearing on the proposed Zoning Ordinance amendments was sent by email to all those who signed up for Planning and Building Weekly Newsletter newsflash items, was posted at the Town's fire

stations, Town Hall, library and post office, and was posted to the Town’s website; and

**WHEREAS**, November 4, 2016, notice of the Town Council public hearing was published in the Marin Independent Journal in compliance with California Government Code Section 65090, and

**WHEREAS**, on November 15, the Town Council of the Town of Corte Madera did conduct a public hearing on the item, and did consider all oral and written comments submitted to the Town regarding the same prior to taking its actions on the item.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.      Recitals**

The foregoing recitals are true and correct and are incorporated into the findings herein.

**Section 2.      Record**

The Record of Proceedings (“Record”) upon which the Planning Commission makes its recommendation includes, but is not limited to:

(1) the 2009 General Plan, (2) the FEIR certified for the 2009 General Plan, including the appendices and technical reports cited in and/or relied upon in preparing the FEIR, (3) the Housing Element updated adopted by the Town Council in 2015, including the adopted environmental determination (4) all staff reports, Town files and records and other documents prepared for and/or submitted to the Town Council related to the adoption of Zoning Ordinance amendments.

**Section 3.      Compliance with the California Environmental Quality Act (CEQA)**

Based on the Record, the Town Council finds the Zoning Ordinance Amendments are not subject to CEQA. The amendments are within the scope of the Program EIR for the 2009 General Plan and the Planning Department recommends that no further environmental review is required for adoption of the zoning ordinance amendments pursuant to the California Environmental Quality Act (CEQA) Guidelines sections 15168 and 15162.

**Section 4.      General Plan Consistency**

The Town Council of the Town of Corte Madera hereby finds that the proposed Zoning Ordinance amendments to Chapter 18.04, 18.08 and 18.31, are in the best interest of the Town because they further established goals, policies and implementation programs of the General Plan to promote housing opportunities, maintain a diverse range of housing options, providing infill housing that is potentially affordable, encouraging the improvement of existing housing stock while preserving quality of life in residential zones. The ordinance amendments also implement specific policies of the Housing Element by modifying and improving the existing accessory dwelling unit provisions to ensure consistency with state code.

The amendments specifically are consistent with and implement the following General Plan and Housing Element policies and programs:

*Implementation Program H-2.15.b Junior Second Units. Review and adopt standards to allow the creation of junior second units. Standards to consider should include, but not be limited to, the following: conversion of existing bedroom required – no building expansion, maximum 500 square foot size, wet-bar type kitchen only with limitations on size of sink, waste line and counter area, cooking facility limited by electrical service and prohibition of gas appliances, bathroom requirement, external access requirement, parking requirements, owner occupancy requirement.*

*Goal H-2 Use land efficiently and sustainably. Develop a variety of housing to meet community needs and to promote sustainability.*

*Policy H-1.4 Variety of Housing Choices. In response to the broad range of housing needs in Corte Madera, the Town will strive to achieve a mix of housing types, densities, affordability levels and designs. The town will work with developers of nontraditional and innovative housing approves in financing, design, construction and types of housing to meet local housing needs.*

*Policy H-2.1 Housing to meet local needs. Provide for the development of new housing to meet the diverse economic and physical needs of existing residents and projected population capacity by planning for adequate sites and supporting programs to achieve Corte Madera's Regional Housing Needs Allocation.*

*Policy H-2.15 Second dwelling units. Encourage well designed, legal second units in all residential neighborhoods.*

*Policy H-2.16 Second Dwelling Units in New Development. Require new second units as part of new detached single-family dwelling subdivision development where five or more new units are proposed.*

*Implementation Program H-2.15.a Second Unit Ordinance. Continue to implement the second unit ordinance.*

*Implementation Program H-2.15.c Second Unit Fees. Encourage the development of second units by waiving or reducing fees as follows: consider waiver or reduction of the second unit permit application fee. Work with special districts, e.g. water and sanitary, to reduce or waive connection and/or service fees.*

**Section 5. Amendment To The Corte Madera Municipal Code.** Subsection 18.04 is amended to add the following:

18.04.392 – Junior Accessory Dwelling Unit.

“Junior accessory dwelling unit” means a housing unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure, including the utilization of an existing bedroom. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. A junior accessory dwelling unit must include an efficiency kitchen with all of the following: a sink with a maximum waste line diameter of 1.5 inches, a cooking facility with appliances that do not require electrical service greater than 120 volts, propane or gas, and a food preparation area that is of reasonable size in relation to the size of the unit.

**Section 6. Amendment To The Corte Madera Municipal Code.** Subsection 18.08.020 is amended, as shown in strike-out (deleted) and underline (added) text, as follows:

Permitted Uses	Multiple Dwelling R-3 and R-2	Medium Density R-1	Low Density R-1-A	Very Low Density R-1-B	Open Residential R-1-C
(11) One accessory dwelling unit <del>or junior accessory dwelling unit</del> which conforms with the size and standards of Chapter 18.31 of this title	X	X	X	X	X

**Section 7. Amendment To The Corte Madera Municipal Code.** Subsection 18.31 Is Amended, As Shown In Strike-Out (Deleted) And Underline (Added) Text, As Follows:

18.31.1 Junior Accessory Dwelling Units

18.31.110 - Purpose.

The purpose of this chapter is to comply with the 2009 Corte Madera General Plan, 2015 Housing Element and California Government Code Section 65852.22 which provides for local jurisdictions to set standards for the development of Junior Accessory Dwelling Units (JADU) so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with the existing neighborhood.

18.31.120 – Junior Accessory Dwelling Unit Permit Required

The zoning administrator or his/her designee shall issue a Junior Accessory Dwelling Unit permit as a ministerial permit to allow for a Junior Accessory Dwelling Unit; provided, that a completed application is submitted which demonstrates that the Junior Accessory Dwelling Unit complies with the requirements contained in this chapter. In addition to a Junior Accessory Dwelling Unit permit, the applicant shall be required to obtain a building permit prior to the construction of the unit.

18.31.130 - Definition

“Junior accessory dwelling unit” means a housing unit that is no more than 500 square feet and contained entirely within an existing single-family structure, including the utilization of an existing bedroom. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. A junior accessory dwelling unit must include an efficiency kitchen with all of the following: a sink with a maximum waste line diameter of 1.5 inches, a cooking facility with appliances that do not require electrical service greater than 120 volts, propane or gas, and a food preparation area that is of reasonable size in relation to the size of the unit.

18.31.140 - Permitted Districts.

Junior Accessory Dwelling Units shall be allowed as permitted uses in the (R-1-C) open residential, (R-1-B) very low density, (R-1-A) low density, (R-1) medium density, (R-2) low density multiple-dwelling and (R-3) high density multiple-dwelling districts; provided, that the submitted application satisfies the requirements set forth in this chapter.

18.31.150 – Junior Accessory Dwelling Unit Regulations.

A Junior Accessory Dwelling Unit shall be subject to the following regulations:

A. Number of Units Allowed. Only one Accessory Dwelling Unit or one Junior Accessory Dwelling Unit may be located on any appropriately zoned parcel that contains a one-family dwelling.

B. Owner-occupancy is required in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

C. Deed Restriction. Prior to obtaining a building permit for a Junior Accessory Dwelling Unit, a deed restriction, approved by the Town Attorney, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a Junior Accessory Dwelling Unit identified in this section. Said deed restriction shall run with the land, and shall be binding upon any future owners, heirs, or assigns. A copy of the recorded deed restriction shall be filed with the Planning Department stating that:

a. Sale Prohibited. A Junior Accessory Dwelling Unit shall not be sold independently of the primary dwelling on the parcel.

b. Floor Area. The Junior Accessory Dwelling Unit shall have a maximum floor area of 500 square feet.

D. Location of Junior Accessory Dwelling Unit. A Junior Accessory Dwelling Unit must be created within the existing walls of an existing primary dwelling, and must include an existing bedroom.

E. Entryways. Must include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.

F. Conformance to Zoning Requirements. Any exterior improvements associated with the development of a Junior Accessory Dwelling Unit shall conform to zoning regulations.

G. Kitchen Requirements. The Junior Accessory Dwelling Unit shall include an efficiency kitchen with all of the following:

a. A sink with a maximum waste line diameter of 1.5 inches.

b. A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.

c. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

H. Parking.

a. No off-street parking is required for a Junior Accessory Dwelling Unit.

b. A permit for a Junior Accessory Dwelling Unit shall not be issued for a site containing an illegal nonconforming parking condition unless the existing illegal parking condition is corrected or a variance or other applicable permit approval is granted to allow the existing illegal parking condition to remain.

c. Reconstruction and/or remodeling and/or expansion of existing residential structures to which Chapter 18.20 – Off-Street Parking and Loading applies shall be required to comply with the applicable parking standards, but an additional off-street parking space shall not be required for a Junior Accessory Dwelling Unit that is part of or created at the same time as the reconstruction and/or remodeling and/or expansion.

I. Bathroom Requirements. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

J. The Junior Accessory Dwelling Unit shall be considered legal only so long as either the primary residence, or the accessory unit, is occupied by the owner of record of the property, except when the home is owned by an agency such as a land trust or non-profit housing organization whose primary mission is to create affordable housing.

K. The Junior Accessory Dwelling Unit shall not be rented for less than the thirty consecutive days.

L. Expiration of Issued Permit. Junior Accessory Dwelling Unit permits shall expire if not vested within two years of the date of approval. As used in this section, vesting means: (1) recordation of required deed restrictions; (2) securing a valid building permit and/or other permits related to the approval; and (3) substantial completion of improvements in accordance with the secured building permit and/or other permits. Prior to the expiration of a Junior Accessory Dwelling Unit approval, the applicant may apply to the Planning Director for an extension of not more than one year from the original date of expiration. The Planning Director shall grant the extension if (s)he finds that there has been no change in the factual circumstances surrounding the original approval.

M. Termination of Junior Accessory Dwelling. Termination of the use requires the elimination by the property owner of any secondary utility meters and removal of all kitchen cabinetry, kitchen sink, refrigerator, dishwasher, cooking facilities. The property owner shall apply for building permits to remove such features, as required under the Town's building and fire codes.

N. Junior accessory dwelling units shall be exempt from Sections 18.18.405(K) and 18.18.410 of this title.

#### 18.31.160 – Procedures.

An application for a junior accessory dwelling unit permit shall be filed with the planning department. No public hearing shall be required but courtesy notice shall be given in the manner prescribed in Chapter 18.36, Administration, at least ten days prior to a decision.

#### 18.31.170 - Administrative Review.

The decision of the planning director granting or denying an accessory dwelling unit permit is a ministerial decision as required by State law. Ministerial approvals are not subject to review at a public hearing. In considering junior accessory dwelling unit permits, review is limited to the objective standards and criteria established by the town as set forth in Section 18.31.150 of this chapter for junior accessory dwelling units. A request for an Administrative review that is limited to the objective standards and criteria for junior accessory dwelling units (18.31.150) may be made by filing an application and paying applicable fees with the Planning Department. Any application for administrative review must be filed with the planning department within ten calendar days of the date that the decision of the zoning administrator or planning commission was made, whichever is applicable. Any Administrative Review proceedings before the planning commission and the town council shall not be public hearings. The planning commission and town council shall apply the criteria contained in 18.31.150 in an objective and ministerial manner. All costs of the proceedings shall be the responsibility of the party requesting review. The Administrative Reviews should be scheduled so as to minimize delay of review or approval of a junior accessory dwelling unit.

### **Section 8. Severability**

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

portions of the ordinance.

The Town Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional on their face or as applied.

**Section 9. Effective Date**

This ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

**Section 10. Posting**

The Town Clerk shall cause a summary of this ordinance to be published in the Marin Independent Journal within 5 days prior to passage and within 15 days after passage.

\* \* \* \* \*

This ordinance was introduced on the 15<sup>th</sup> day of November, 2016, and adopted on the XXth day of XXXX by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSED:

\_\_\_\_\_  
SLOAN C. BAILEY

ATTEST:

\_\_\_\_\_  
REBECCA VAUGHN  
TOWN CLERK