

ORDINANCE NO. 2018-593

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WOODSIDE AMENDING MUNICIPAL CODE CHAPTER 153 (ZONING), TO INCLUDE PROVISIONS FOR THE DEVELOPMENT OF, AND ADEQUATE INGRESS/EGRESS FOR, ACCESSORY DWELLING UNITS (ADU'S) ABOVE GARAGES AND WITHIN BARNs (FILE NO. **ZOAM2017-0006**).

WHEREAS, in 2016, the Town Council requested that staff continue to make minor changes to the Municipal Code to remove barriers for small development projects, which would not result in adverse impacts;

WHEREAS, Town staff has identified Zoning Code amendments needed to clarify the allowable development of ADU's above existing garages and within barns;

WHEREAS, the current Zoning Code is silent with respect to the provision of adequate ingress/egress for ADU's constructed above existing garages, an ADU type supported by new State law and the Town's State-compliant ADU ordinance, thus creating an implementation challenge;

WHEREAS, the Town of Woodside is committed to inclusive public participation and involvement in matters pertaining to the General Plan and its Elements, and the Zoning Code;

WHEREAS, the Planning Commission recommends that the Town Council find that the adoption of this ordinance is exempt from the California Environmental Quality Act ("CEQA"), pursuant to Section 15061(b)(3) (no possibility that the activity may have a significant impact on the environment), of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations);

WHEREAS, on October 4, 2017, the Planning Commission conducted a duly noticed public hearing to initiate the amendment of Municipal Code Chapter 153, at which time oral and written comments and a staff recommendation were presented to the Planning Commission for their review and consideration; and it requested additional information from staff;

WHEREAS, on October 18, 2017, the Planning Commission conducted a duly noticed public hearing to initiate the amendment of Municipal Code Chapter 153, at which time oral and written comments and a staff recommendation were presented to the Planning Commission for their review and consideration; and it reviewed the additional information requested from staff;

WHEREAS, on October 18, 2017, the Planning Commission approved a Resolution of Intent and recommendation to the Town Council (PC Resolution No. 2017-035) to include provisions for the development of, and adequate ingress/egress for, accessory dwelling units (ADU's) above garages and within barns;

WHEREAS, on December 12, 2017, the Town Council conducted a duly noticed public hearing at which time oral and written comments and a staff recommendation were presented to

the Town Council for this review and consideration, and the Town Council directed staff to study the matter further, and return with additional information; and

WHEREAS, on February 13, 2018, the Town Council conducted a duly noticed public hearing (study session) at which time oral and written comments and a staff recommendation were presented to the Town Council for this review and consideration, and the Town Council directed staff to make further refinements to the draft ordinance; and

WHEREAS, on March 13, 2018, the Town Council conducted a duly noticed public hearing at which time oral and written comments and a staff recommendation were presented to the Town Council for this review and consideration, and provided a first reading and introduction of this ordinance; and

WHEREAS, on March 27, 2018, the Town Council conducted a public meeting, and provided a second reading of this ordinance.

NOW THEREFORE, IT IS HEREBY ORDAINED by the Town Council of the Town of Woodside to amend the Woodside Municipal Code as follows:

SECTION ONE: FINDINGS.

The Town Council finds that the proposed code amendments clarify the allowable development of ADU's above existing garages and within barns;

The Town Council finds that the proposed code amendments include provisions for adequate ingress/egress for ADU's constructed above existing garages, an ADU type supported by new State law and the Town's State-compliant ADU ordinance, thus resolving a current implementation challenge;

The Town Council finds the changes to the Municipal Code consistent with the current General Plan; and,

The Town Council finds that based on the findings above and the Town Council Staff Reports of December 12, 2017, February 13, 2018, and March 13, 2018, the adoption of this ordinance is exempt from the California Environmental Quality Act ("CEQA"), pursuant to Section 15061(b)(3) (no possibility that the activity may have a significant impact on the environment), of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations).

SECTION TWO: AMENDMENT. Chapter 153 of the Municipal Code is amended as follows as identified by underlined and ~~strikethrough~~ text:

§ 153.206 FLOOR AREA.

TABLE F-1: Floor Area Exclusion and Credits

<i>Feature</i>	<i>Multiplier</i>
Dormers: <ul style="list-style-type: none">- Up to 25 square feet of an individual dormer- Greater than 25 square feet of an individual dormer If the total length of dormers on a roof section is more than 30% of the length of that roof section, Floor Area shall be calculated based on Plate heights measured to the dormers, per Table F.	0.00 1.00
Dormers (for ADU's above detached garages, pursuant to § 153.211 and § 153.110): <ul style="list-style-type: none">- Up to 50% of the length of the roof	0.00

§ 153.211 ACCESSORY DWELLING UNITS.

All Accessory Dwelling Units, whether internal, attached to, or detached from the Main Dwelling unit, shall conform to the following requirements:

(A) Requirements applicable to all Accessory Dwelling Units:

(1) *Building and Fire Safety.* Conformance with all applicable building, housing, zoning, and site development laws, codes, and regulations shall be required, as applicable to Accessory Dwelling Units. Accessory Dwelling Units shall not be required to provide fire sprinklers if they are not required for the primary residence and may employ alternative methods for fire protection.

(2) *Parking and Driveway Access.* Off-road parking spaces shall be provided in accordance with the requirements of §§ 153.221 through 153.225, as applicable to Accessory Dwelling Units; and specifically as follows:

(a) *Parking Requirements.* Parking requirements for Accessory Dwelling Units shall be one parking space per Accessory Dwelling Unit. Off-street parking shall be permitted in Setback areas in locations determined by the Town, or through tandem parking, unless specific findings are made that parking in Setback areas or tandem parking is not feasible based upon specific site or regional topographic or fire and life safety conditions.

(b) *Parking Waiver.* Parking is not required in the following instances:

1. The Accessory Dwelling Unit is located within one-half mile of public transit, including transit stations and bus stations;

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. The Accessory Dwelling Unit is located in an area where parking permits are required, but are not offered to the occupant of the Accessory Dwelling Unit; or

5. The Accessory Dwelling Unit is located within one block of a car share vehicle.

(c) *Replacement Parking*: When a Garage, Carport, or covered parking Structure is demolished or converted in conjunction with the construction of an Accessory Dwelling Unit, the Town requires that those 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.

(d) *Driveway Access*. Any Lots that have two or more existing permitted Driveways shall use the Principal Access Driveway as the primary access to any proposed Accessory Dwelling Unit. Any additional existing Driveways other than the Principal Access Driveway shall not be used as the primary access for any proposed Accessory Dwelling Unit. Pursuant to Municipal Code § 151.44, a Second Driveway Exception shall not be granted if the second Driveway is the primary access for a proposed Accessory Dwelling Unit.

(3) *Design Review*. All plans for Accessory Dwelling Units shall be subject to review and approval by the Planning Director. In addition, all plans for the new construction or exterior modification of Accessory Dwelling Units shall also, prior to the issuance of any permit, be subject to review according to § 153.912. In considering architectural review, the Planning Director shall be required to find that the Accessory Dwelling Units are subordinate to the Main Dwelling, and compatible with the neighboring property and Uses in Height, bulk, location, appearance, color, materials, and landscaping.

(4) *General Accessory Structure Regulations*. All requirements related to Accessory Buildings contained in this Chapter, including, but not limited to: Height, Setbacks, Floor Area, lot coverage, and landscaping shall apply.

(5) *Number of Accessory Dwelling Units Allowed*. No more than two Accessory Dwelling Units, including Accessory Dwelling Units in Barns, are permitted on a Parcel. For Parcels equal to or greater than 1.0 acre in size, but less than 1.5 acres in size, a maximum of one detached and one attached Accessory Dwelling Units shall be permitted. For Parcels less than 1.0 acre in size, no more than one Accessory Dwelling Unit accessory living quarters, whether attached or detached, shall be permitted. In the R-1 District, no more than one Accessory Dwelling Unit is permitted, and detached Accessory Dwelling Units may only be permitted if the Lot Area is at least 20,000 square feet.

(6) *Attached Accessory Dwelling Units*. The Floor Area of an attached Accessory Dwelling Unit shall not exceed 50% of the size of the main residence, including the Accessory Dwelling Unit, or 1,500 square feet, whichever is less.

(7) *Detached Accessory Dwelling Units.* The Floor Area of a detached Accessory Dwelling Unit, including the Floor Area of any attached Garage, shall not exceed 1,500 square feet.

(8) *Basement Accessory Dwelling Units.* Basement area used for an Accessory Dwelling Unit, or a portion thereof, shall be limited to the unit sizes prescribed in divisions (A)(6) and (A)(7) of this section.

(9) *Rental Accessory Dwelling Units.* Accessory Dwelling Units which are rented shall not be rented for less than 30 consecutive days.

(10) *Existing Garages converted to Accessory Dwelling Units.* No Setback shall be required for an existing Garage that is converted to an Accessory Dwelling Unit, and a Setback of no more than 5 feet or the Setback of the existing Garage, whichever is greater, from the side and Rear Lot Lines shall be required for an Accessory Dwelling Unit that is constructed above a Garage, as long as access and egress requirements, as prescribed by the Building Code and Municipal Code Height requirements are met.

(11) *Processing Requirements:*

(a) *Accessory Dwelling Units within an Existing Structure.* An Accessory Dwelling Unit within an Existing Structure (including the primary Structure, attached or detached Garage, or other Accessory Structure) shall be permitted ministerially with a Building Permit, and within 120 days of application, in compliance with other standards within the Chapter, if complying with the following codes and requirements:

1. Building and safety codes;
2. Independent exterior access from the existing residence;
3. Sufficient Side and Rear Setbacks for fire safety, as set forth in the Building Code; and,
4. A minimum 5' Setback for a second-story Accessory Dwelling Unit above an existing nonconforming garage.

(5) Construction of a new access stair a minimum of five feet from the side or rear property line, or the existing setback, whichever is greater, to access a new ADU built above an existing, legal nonconforming garage is allowed. Additionally, the Planning Director will review the design of such an access stair to ensure that: an access stair cannot be accommodated within the existing nonconforming garage because it would reduce the parking in the garage to less than two spaces or would eliminate the only feasible required parking on site. An existing garage located at the required setback shall be allowed an access stair which may encroach a maximum of five feet into the required setback.

(b) *Denial.* In order to deny an Accessory Dwelling Unit, the Planning Director shall find that the Accessory Dwelling Unit would be detrimental to the public health and safety or

would introduce unreasonable privacy impacts to the immediate neighbors.

(B) *Requirements applicable to Accessory Dwelling Units within Barns.* In addition to the requirements applicable to all Accessory Dwelling Units, any such Accessory Dwelling Units located within Barns shall conform to the following additional requirements:

(1) No more than one Accessory Dwelling Unit within a Barn shall be permitted on a Parcel with the following exception: up to two Accessory Dwelling Units may be permitted within a Barn located on a property containing a Town-approved Professional Stable. Such additional Accessory Dwelling Units shall only be permitted after approval of a Conditional Use permit by the Planning Commission, in accordance with applicable Conditional Use permit procedures.

(2) The Floor Area of the Accessory Dwelling Unit within a Barn shall be no greater than 50% of the Footprint area of the barn, or 1,200 square feet, whichever is less.

(3) The Accessory Dwelling Unit and the Barn shall contain an automatic fire sprinkler system, and the Accessory Dwelling Unit shall be separated from the other portions of the Barn with a one-hour firewall, in accordance with the Town's Building Code.

(4) An Accessory Dwelling Unit in a barn may be located on either a first or second floor, of that portion of the barn adheres to required setbacks.

§ 153.110 MULTI-FAMILY RESIDENTIAL DEVELOPMENT OVERLAY ZONE

...

(C) Development standards and requirements.

(1) Notwithstanding any other provisions of this section, all MFRD projects shall be subject to the goals policies, standards and requirements of the General Plan.

(2) For the purposes of this section, the applicant shall designate a "MFRD lot" or "MFRD lots" as the site(s) of the MFRD. Each "MFRD lot" may be a legal parcel, or it may be a portion of a legal parcel within the defined Cañada College campus that will accommodate MFRD. Each "MFRD lot shall not include any other buildings, or uses such as parking or open space that supports other buildings not on the MFRD lot.

(3) The following standards shall be met by any proposed MFRD (see Table A: MFRD Development Standards):

(a) *Lot dimensions.* Lots accommodating MFRD shall be no less than 75 feet in any dimension.

(b) *Lot coverage.* No more than 60% of the lot shall be covered by buildings.

(c) *Unit density.* The minimum unit count on the lot shall be at least one unit per 4,500 square feet of lot area. The maximum unit count on the lot shall be no more than one unit per 2,400 square feet.

(d) *Building height.* No residential structure shall exceed 35 feet in height, and no accessory structure shall exceed 17 feet in height.

(e) *Setback requirements.* For the purposes of this section, setbacks shall be measured from 1) the legal parcel boundary, 2) the edge of the "MFRD lot"

defined in division (C)(2) of this Section, or 3) the edge of any internal roadway on the Cañada College site, whichever is more restrictive. The Planning Director shall determine the location of the front, side, and rear setbacks.

1. Required front-yard setbacks: Front yards shall have a minimum setback of 15 feet, and provide further that no garage or carport space shall have its entrance located within 20 feet of any property or "MFRD lot".

2. Required side-yard setbacks:

a. Side-yard setback: Side yards shall have a minimum setback of six feet, provided that the horizontal distance to the side lot line of any point on any building face shall not be less than one-half its height above the side lot line.

b. Wherever a main entrance to a building containing three or more units opens into an interior side yard, the minimum side-yard setback shall be 15 feet to the entrance of that portion of the building.

c. Exterior side yards. Wherever a side yard is adjacent to a street, such side yard shall have a minimum yard setback of 15 feet.

d. Multiple-story dwellings and additions: Multiple-story structures shall maintain a minimum side yard of 25% of the lot depth or 35 feet, whichever is less. Remaining portions of a multiple-story structure shall have a minimum setback equal to one half the height measured at the plateline or ridge beam, whichever is highest.

e. For Accessory Dwelling Units, 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. See § 153.211(A)(11)(5) for setback exception provision for access stairs for Accessory Dwelling Units above garages.

3. Required rear-yard setbacks: Rear yard setbacks shall have a minimum yard setback of 20 feet.

(a) Minimum pervious area and stormwater requirements. A minimum of 20% of each lot shall be pervious area, to be composed of landscaping, vegetated open space, or natural state.

(b) Required pervious area in front yard. A minimum of 60% of the area of the front yard shall be pervious area, primarily comprised of pervious landscaped material. Area devoted to public sidewalks shall not be included in the calculations.

(c) MFRD projects may deviate from the standards in this division (C)(3) of this section if it is determined by the Planning Commission that the project requires deviations in order to promote the most appropriate use and design, and if the other requirements of this section are met.

Table A: MFRD Development Standards

Regulation	Requirement			
Lot Dimensions	75 feet minimum (in any dimension)			
Lot Coverage	60% of lot (maximum)			
Unit Density	Minimum		Maximum	
	1 unit/4,500 sq. ft.		1 unit/2,400 sq. ft.	
Building Height	Main Structure		Accessory Structure	
	35 ft. maximum		17 ft. maximum	
Front-Yard Setbacks	Main Structure		Garages/Carports	
	15 ft. minimum		20 ft. minimum	
Side-Yard Setbacks	Interior Side Yard	Where Main Entrance Opens Onto Side Yard	Exterior Side Yard	Multiple Story Side Yard
	Minimum is 6 ft. or ½ of building height	15 ft. minimum	15 ft. minimum	Minimum setback is required for 25% of lot depth or 35 ft., whichever is less; Remainder shall be setback ½ of building height at plateline or ridge beam, whichever Is higher
Rear-Yard Setbacks	20 ft. minimum			
<u>Setbacks for Accessory Dwelling Units on MFRD lots</u>	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. See § 153.211(A)(11)(5) for setback exception provision for access stairs for Accessory Dwelling Units above garages.			
Pervious Area	Total Lot	Front Yard		
	20% of lot minimum	60% of yard minimum		
Parking	1 space per bedroom			
<u>Parking for Accessory</u>	Shall not exceed one parking space per Accessory Dwelling Unit. These spaces may be provided as tandem parking, including on an existing			

<p><u>Dwelling Units on MFRD lots</u></p>	<p>driveway or in setback areas, excluding the non-driveway front yard setbacks. Parking is not required when the Accessory Dwelling Unit is located:</p> <ul style="list-style-type: none"> ▪ within ½ mile of public transit, including transit stations and bus stations; ▪ within an architecturally and historically significant district; ▪ when on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or, ▪ when there is a car share vehicle located within one block of the Accessory Dwelling Units.
--	---

...

(D) *Evaluation criteria.* The evaluation criteria for reviews of MFRD by the ASRB and Planning Commission shall be as follows:

(1) The criterion enumerated in § 153.220 shall apply, except that criterion 1.4 entitled “Equestrian Lifestyle” shall not apply and criterion 1.1 entitled “Rural Character and Community Aesthetics” shall be interpreted with the understanding that MFRD projects are typically multi-story buildings.

(2) The chosen architectural style shall be applied in its simplest form.

(3) Project design, massing, and color shall be chosen with consideration for visibility from Interstate 280.

(E) *Review process.* MFRD development in the Canada College Residential Overlay Zone shall be reviewed by the Town following the process outlined in § 153.221 and the Town’s Residential Design Guidelines, and shall include both conceptual review by the ASRB, as well as formal review by both the ASRB and the Planning Commission, except for the conversion of existing space for an Accessory Dwelling Units, and/or construction of a new addition or structure for an Accessory Dwelling Units, which shall be by the Planning Director.

(F) *Findings.* In addition to the findings required by §153.221 and the Town’s Residential Design Guidelines, the ASRB and Planning Commission shall make all of the findings required by §153.251 for use permits.

(G) *Amendment of an approved MFRD.* Any change to an approved MFRD, shall be processed and reviewed following the same evaluation criteria and process described for MFRD review and approval in division (D) and (E) of this section, except for the conversion of existing space for an Accessory Dwelling Units, and/or construction of a new addition or structure for an Accessory Dwelling Units, which shall be by the Planning Director.

§ 153.236 LIMITATIONS APPLICABLE TO ALTERATIONS, ADDITIONS, REPLACEMENT, OR PAVED AREA AND SURFACE COVERAGE

(A) *Alterations.* Alterations to a nonconforming structure, including the complete rebuilding of such structures are allowed, provided they do not increase or create additional nonconforming attributes and all of the following conditions are met:

(1) A Building Permit for the proposed alterations shall be obtained;

(a) Where alterations significantly modify the exterior of the structure, the architectural style and all other aspects of the structure shall be reviewed pursuant to §§ 153.911 through 153.918 and shall be approved in accordance with ordinances that would be applicable if the structure were to be constructed new or if the structure were conforming;

(2) The footprint and plate heights of the nonconforming portions of the structure shall not be increased; with the exception that the plate height of an Accessory Dwelling Unit constructed above an existing, nonconforming garage, may be increased to a maximum of 11 feet. Additionally, the overall height of the nonconforming portions shall not be increased above a maximum height of 17 feet;

(3) An encroachment permit has been granted for any structure or building located within the Town's road right-of-way; and

(4) If the structure is for human habitation, the structure shall not be located in:

(a) A flood hazard zone,

(b) An earthquake fault setback zone, or

(c) A landslide as defined on the Town's geologic map or an otherwise identified landslide, unless the location of such structures shall be permitted by the Town Engineer in his/her sole discretion.

(5) Notwithstanding the above, if the alteration involves the relocation of a building that is deemed to qualify for the California Register of Historical Resources, and the purpose of the relocation is for restoration consistent with the Secretary of the Interior Standards, the qualifying building may be placed on any lot despite exceeding the maximum size limitations; provided all other provisions of this chapter are met, and the building was originally built in and is currently located in Woodside.

(B) *Additions.*

- (1) Additions to a nonconforming structure or building are prohibited unless such additions shall conform to the provisions of all applicable ordinances, including, but not limited to, those ordinances prescribing setbacks and height limits.
- (2) Notwithstanding the provisions of division (B)(1) above, an exception to permit an addition to a nonconforming main residence to encroach into a setback may be granted by the Planning Director, provided all of the following are satisfied:
 - (a) The total floor area of the encroaching portion of the addition to the nonconforming main residence shall not exceed 10% of the maximum house size allowed for the lot on which the nonconforming main residence is located;
 - (b) The total area of the nonconforming main residence after the addition is made shall not exceed 95% of the maximum house size allowed for the lot on which the nonconforming main residence is located;
 - (c) No part of the proposed additions(s) shall encroach into the setback to a greater extent than the furthest encroachment of the nonconforming main residence prior to the addition, or so as to create a side setback of less than ten feet or a rear setback of less than 17 feet.
 - (d) The addition that extends into the setback shall not exceed a 17-foot overall height maximum as measured from natural or finished grade, whichever is lower;
 - (e) The addition shall conform to all applicable ordinances and regulations except those relating to setback;
 - (f) The existing setback encroachment was not created through a variance granted by the Town;
 - (g) In the R-1 zoning district, the new encroachments of the addition are limited to the front setback area; and
 - (h) Appropriate landscape screening shall be installed, subject to the review and approval of the Planning Director.
- (3) The Planning Director has notified, by first class mail, all property owners within 300 feet of the subject property of the exception request, at least 10 days prior to the Planning Director's final determination

SECTION THREE: In the event that any provision of this ordinance is in conflict with any other ordinance of the Town of Woodside or the Woodside Municipal Code, the provisions of this ordinance shall prevail.

SECTION FOUR: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of the Ordinance or any part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

SECTION FIVE: Pursuant to Section 36937 of the Government Code of the State of California, the Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION SIX: The Town Clerk shall cause this Ordinance to be published in accordance with the requirements of Section 36933 of the Government Code of the State of California.

* * * * *

I, the undersigned, hereby certify that the foregoing Ordinance is a full, true and correct copy of Ordinance No. 2017- 593 of the Town of Woodside entitled as above; that it was introduced on the 13th of March, 2018, and was passed and adopted by the Town Council on the 27th of March, 2018, by the following vote:

AYES,	Councilmembers:	Gordon, Livermore, Tanner, Yost, and Mayor Shaw
NOES,	Councilmembers:	None
ABSENT,	Councilmembers:	Kasten
ABSTAIN,	Councilmembers:	None

Clerk of the Town of Woodside

APPROVED:

Mayor of the Town of Woodside