

CALL TO ORDER AND ROLL CALL

Chair Targ called the Planning Commission regular meeting to order at 7:00 p.m. Planning & Building Director Russell called the roll.

Present: Planning Commissioners: Kopf-Sill and Taylor; Vice Chair Goulden; Chair Targ
Absent: Commissioner Hasko
Town Staff: Laura Russell, Planning & Building Director; Cara Silver, Town Attorney;
Arly Cassidy, Associate Planner

ORAL COMMUNICATIONS

None.

OLD BUSINESS

(1) Accessory Dwelling Units (ADUs): Review of Additional Information and Preliminary Code Outline

Planning & Building Director Russell introduced herself and invited the public to view the staff reports and attachments, glossary of terms, and additional information regarding ADUs.

Town Attorney Silver discussed the staff recommendation regarding allowing ADUs on smaller lots (i.e., less than one acre). She said because this could have a particular impact on the Town Commissioners and Councilmembers who own small lots, the issue needs to be further reviewed to determine if a conflict of interest exists for Town Officials to participate in that decision. She said it is a property-specific analysis but, in general, there could be conflicts of interest when Town Officials are making recommendations on ordinances that have impact on their personal property. She said there is an exception to allow Town Officials to participate in general zoning matters that would impact a significant segment of the population in a way that is similar to the impact on the Town Official's property. She said "significant segment" means 25% of the other residentially-zoned properties in Town. She said staff will analyze to determine the numeric threshold, and if a conflict of interest is found, it will be recommended that the affected Officials recuse themselves. She said three Planning Commissioners own lots of less than one acre. She said if all three are recused, there would only be two Commissioners available to make a recommendation, which is not a quorum. In that situation, in order to gain a quorum, the three conflicted would draw straws to determine which one could participate. She said staff recommends that any recommendation dealing with specific parcel sizes be deferred until the next meeting so staff has time to further analyze this issue. In response to Commissioner Kopf-Sill's question, Town Attorney Silver said the conflicted Commissioners could still participate on the other issues. Vice Chair Goulden pointed out that the issue addressed lots of all sizes. Town Attorney Silver said the analysis would be done on all lot sizes against the Commissioners' potential conflict.

Planning & Building Director Russell said the staff report contains some details related to lot size, and the oral presentation has been modified to take that into account, so they will not be covering everything in the written staff report. She said they will be looking for feedback on big picture concepts and Town-wide issues without focusing on things related specific to lot size.

Planning & Building Director Russell said it has also come to staff's attention that there are differences of opinion from the Commissioners on some of the big picture questions – Are ADUs different than other accessory buildings in terms of their impact? Should there be consistency between ADUs and other buildings? Should ADUs be treated differently? Do ADUs represent a big increase in intensity? Are there special mitigations necessary? She said staff respects the differences of opinion on these subjective questions and understands consensus may not be reached on all of those things. She said in putting together the staff package, they've tried to capture all of the opinions and collect them in a way to help toward decision-making. She said they've also tried to address the community-wide and neighborhood concerns, recognizing that there might not be consensus among all the big picture questions, but that some of the problems can be solved without necessarily agreeing on the answers to those questions.

Chair Targ said some of the issues, such as intensity, aren't subjective but can be informed by facts and analysis that presumably will be drawn out to help form a consensus within the Commission. Planning & Building Director Russell said data is certainly helpful in discussions around intensity, and staff hopes to meet the Commission's needs in those conversations.

Planning & Building Director Russell said staff has been conducting additional research to gather information to help the Commission in their decision-making. She said the recommended ADU survey had come up as part of the Housing Element Annual Report process. She said staff had understood that the survey was mostly about affordability and connected to the Housing Element, not realizing there may be a connection to the ADU amendments under consideration by the Commission, so the survey had been put aside. She said since this has been brought back to staff's attention, they wanted to check in with the Commission to see if they expected that work as part of staff's research related to the ADUs amendments, or if they see it as separate. If the Commission felt this is integral to the ADU research, she said staff could try to get the survey out. She shared the updated version of the survey incorporating the Commission's July comments and asked for feedback regarding whether or not this was important information for them in their decision-making and how to prioritize it with staff resources or if it could wait for a future time. She invited Chair Targ to discuss this issue now or wait until after receiving staff's presentation.

Chair Targ suggested waiting until after the presentation. He said that looking at the ADU survey is important, and they've been asking for it for a couple of years. He said choosing to move forward with the survey now would depend upon how quickly staff could gather responses and complete an analysis. Planning & Building Director Russell said staff feels it will take significant staff resources but, if it is important to the Commission, they could put it out next week, and they could possibly have results by the second meeting in December. Associate Planner Cassidy said staff has discussed that the most effective way of distributing the survey is by mail because they do not have email addresses for all of the 220 ADU owners. She said it would take some time to coordinate that if they want a digital return which allows for more anonymity and wider dissemination.

Associate Planner Cassidy presented the background, Town Council direction, relationship to State law, and Items 1 through 3, as detailed in the staff report.

Chair Targ invited questions from the Commission regarding Items 1 through 3.

Commissioner Kopf-Sill asked how staff arrived at an ADU size being limited to 60% to 70% of the main residence. Associate Planner Cassidy said there had been concern expressed about duplicating size, in essence creating duplexes. She said those percentages are just a starting point based on the current size allowances and the sizes that people were requesting.

Commissioner Taylor asked if the proposal is that floor area can be built out to 85% or 100%. Associate Planner Cassidy said it would be 100% of the AMFA; however, there are other limitations that apply. Commissioner Taylor asked if 10% in outbuildings would be counted. Associate Planner Cassidy said the 10% in outbuildings would be counted as per the normal code.

Commissioner Taylor asked if an ADU could have an interior entrance as well as the required separate entrance. Associate Planner Cassidy said she believed an interior entrance is allowed; however, she would need to check the State code to see if there is guidance. She said a "Junior ADU" has more to do with interior connections, and some of the functions of that unit can be part of the conjoined space. Commissioner Taylor asked if the external attached ADU was more under the Town's jurisdiction because the State code does not speak as directly to them as they do to internal units. Associate Planner Cassidy said, to the point of whether they can be connected, she believed the State views them as similar units.

Commissioner Taylor asked if someone could build an ADU atop an existing non-conforming structure such as a garage. Associate Planner Cassidy said there is separate State language regarding ADUs built above garages versus conversion of an existing garage.

Commissioner Taylor said the proposed noticing appears to be more inclusive than currently exists, and that there will be noticing for anything except ministerial reviews. Associate Planner Cassidy confirmed that the 300-foot buffer notice would stay true for all discretionary review. She said they are proposing to add a second notice for all discretionary review that the applicant would initiate as part of the application.

Commissioner Taylor asked if there was a means to appeal a ministerial review. Associate Planner Cassidy said there is the ability to appeal only like you can appeal an interpretation of the building code.

In response to Vice Chair Goulden's question, Associate Planner Cassidy said that the items called out under Outline Item #5 are not from the normal process. She said the code section is redundant to make sure all ADUs are caught in the same review requirement.

Vice Chair Goulden asked for clarification regarding the distinction between the review of a non-habitable structure (barn) and an ADU. Associate Planner Cassidy said if an applicant proposes space that is not described as an ADU, then it is treated as a normal addition that might go to ASCC or be reviewed as part of the building permit, depending on the size and other elements. She said it would be viewed as part of the regular program for a single-family home. She said the process is meant to capture when the eventual use is proposed as an ADU.

Chair Targ asked regarding potential development of ADUs on private roads or where there may be issues of construction in fire danger areas, and if that would be handled as a ministerial or staff discretionary review. Associate Planner Cassidy said those items would be difficult to capture as part of a ministerial review. Planning & Building Director Russell said detached ADUs can be built under today's code in different situations, different lot sizes, and different sizing. After discussion, Planning & Building Director Russell summarized that Chair Targ was suggesting bringing in specific considerations such as insufficient roads and fire danger.

Mayor Richards pointed out that all projects go through a Fire District review. Town Councilmember Derwin said she recently had to hire people to clear the land all around her ADU, she has fire sprinklers, and she was restricted in the building materials she could use. She said the Fire Department is very thorough regarding fire protection, materials, road access, etc. Planning & Building Director Russell said the Wildland Urban Interface is in effect which applies to all new construction in

town. She said staff is also reaching out to the Fire Chief in a more general sense to discuss the potential for additional ADUs in the community and understanding the Fire District's concerns.

Chair Targ asked for clarification regarding the ASCC's view of the AMFA approach. Associate Planner Cassidy said the ASCC's overall approach was that as long as one member was involved in the process, that would be enough of a catch for projects that did not sit well or fit contextually within the area.

Chair Targ asked if the focus when defining an ADU is the size and the comparative percent of AMFA. He said he didn't see any specificity in the current Code definitions of accessory uses and accessory structure regarding determining an ADU to be incidental to the main unit/structure and asked if the focus should be primarily on size. Planning & Building Director Russell said there would still be the general definition of accessory dwelling unit that comes from State law. She said the staff report shows the Town's current definitions, which do not capture what the Planning Commission is after – a way to ensure limiting ADUs and making sure they are truly accessory in nature – which will need to be addressed with this effort.

Chair Targ invited public comment.

Bruce Roberts, 40 Hillbrook. Mr. Roberts said their house was built in 1959 or 1960, and is approximately 5,100 square feet, with approximately 3,500 square feet on the main top floor and approximately 1,630 square feet in the basement. He said he asked for clarification of what does and does not qualify as a basement. He said his basement is approximately 32% of his total square footage. He said his recently deceased father moved in with them in 2015 when they started this process. He said his project has taken 2-1/2 years and finally received an occupancy permit this summer. He encouraged the Town to take steps to move this process along more quickly. He thanked the Town and staff for having so many helpful open meetings. He suggested suspending the additional survey. He said his home has four bedrooms and three bathrooms upstairs and two bedrooms and two bathrooms downstairs, which have existed at least since 1978 when he bought the property. He said his property is on a septic system and suggested the code also clarify those requirements. He said a 1,200 square foot limitation for an internal ADU puts an undue burden on someone like him who has done nothing to impact his neighborhood. With regard to Item 5.e.3., he noted he only received his occupancy permit this summer and said having to wait another year to apply for an ADU is an unnecessary requirement for an internal unit. He said he was supportive of having second addresses which will allow them to have second meters. He said he would like to know if the second addresses would be numbers or letters. He said internal units should not require more than the bare minimum need for notice. He said he may still have to go through the expensive variance process, and he hopes that the fees are made more reasonable. He said there should not be a square footage or percentage requirement for an internal unit.

Commissioner Taylor asked staff why Mr. Roberts would be required to wait a year to use his space as an ADU. Associate Planner Cassidy said the proposal was meant to capture if an applicant built an addition to their home, and then converted that new existing space into an ADU, which would then only require the ministerial process, thereby circumventing the usual discretionary review of an ADU. She said Mr. Roberts' situation is different in that it is larger than 1,200 square feet which would not qualify for an automatic ministerial review anyway.

Commissioner Taylor asked Mr. Roberts why he needed a variance. Mr. Roberts said he would need a variance to bypass the year wait to convert his unit into an ADU.

Lindsay Bowen, 195 Portola Road. Mr. Bowen asked if an applicant going off the grid, i.e., all solar, would change any of the requirements. Associate Planner Cassidy said the fact that an ADU was

reliant on a solar system versus a normal electric connection does not cause any specific triggers. Chair Targ asked Mr. Bowen if he thought there was a specific reason that it should have a trigger. Mr. Bowen said he was considering the undergrounding policy and does not see a nearby telephone pole.

Virginia Bacon, 205 Golden Oak. Ms. Bacon asked what defined livable basement area. Associate Planner Cassidy said the code includes a definition for basement – 7-foot ceiling height, converted to livable and habitable space according to the building code with certain size dimensions. Planning & Building Director Russell said there are typical building code requirements including light, air, egress, heating, ventilation, etc.

Ms. Bacon asked if there was any reason one could not have an ADU with septic and a drain field. Associate Planner Cassidy said there is no specific requirement that an ADU be on sewer or septic. She said the trigger comes into play dependent upon the existing septic system and whether the sewer line is close enough to trigger requiring connection to it. Ms. Bacon said she would like to see the County requirements known upfront as part of the process.

Yvette Welch, 10 Paso Del Arroyo. Ms. Welch asked if ADUs can be completely off the grid, including solar and composting toilets. Associate Planner Cassidy said it is not illegal to be off the grid and said the Town had recently approved a house that is completely off the grid. Mayor Richards said he was under the impression that the composting toilets are not allowed. Associate Planner Cassidy clarified that the home must be connected to sewer or septic at this time. In response to Ms. Welch's question, Planning & Building Director Russell said ADUs on wheels were not allowed at this time and that ADUs must be permanent structures on a foundation.

With no additional public comment, Chair Targ brought the item back to the Commission for discussion.

Associate Planner Cassidy asked the Commission to discuss the code outline, and to provide feedback regarding anything that was missing and if the topics were well named and organized.

Commissioner Taylor asked where it would be appropriate to discuss whether or not there should even be a secondary process for ADUs.

Planning & Building Director Russell said the next topic is staff discretionary review in general, whether or not it was an appropriate process and if the triggers were correct. She said the Commission could also choose to discuss that issue now.

Commissioner Taylor said he would rather just fast-track the ASCC process, having projects continue to go through the ASCC rather than make up new rules. He said a house is a house, whether it's an ADU or a primary residence, and it should have the same standards applied. He said that approach would resolve a lot of the issues. He said there could then be a few exceptions, such as the second driveway and second addresses, for things that make sense specifically for an ADU. He said if there was a better process that made it clearer to the applicant up front what was required, they could be confident that if they followed the checklist and stayed within the boundaries they could go to ASCC for one meeting and be done.

Chair Targ said, although it veered from staff's outline, this was the right time in the meeting to have that broader conversation and suggested a quick vetting of this issue.

Vice Chair Goulden said one approach could be a house is a house, without a separate set of regulations for ADUs. He said, however, another approach could be that things are moving in the right direction and Council has requested tweaking a few items to make them a bit more attractive for ADUs.

He said the quick way to do that is with what staff has prepared. He said the two approaches are not mutually exclusive. He said the Commission could just tweak a few things, pushing this in a further direction, and then come back to do things such as overall surveys. He said that approach might yield results more quickly.

Commissioner Taylor said he feels his approach would be faster – leaving the system the way it is and basically proposing a couple of accelerators to the Council. He said the Council can decide that ADUs can be fast-tracked and fees can be reduced for them. He said this is simpler than having to write all this new legal language about staff discretionary reviews. He said the more the process is normalized and consistent, the easier it is for the professionals who would not have to deal with the additional ADU rules. He said his understanding was that the goal was to make the process faster and potentially cheaper, removing the small impediments. Vice Chair Goulden said that would not cover ADU square footage or any of the things that are ADU-specific. Commissioner Taylor said he would still support that the ADU must be secondary to the primary residence with the 60% to 70% limit. He said if there were only one process, there would be no need to have a one-year waiting period to catch those trying to circumvent the separate ADU process.

Commissioner Kopf-Sill said she would not support applying the proposed streamlined ADU process to all buildings. Commissioner Taylor clarified that he was not proposing that, but was proposing consistency and expediency by putting proposed ADUs through ASCC as usual, but on a faster track. He said he could see the process evolve through time to where ASCC could choose to give it back to staff for discretionary review. He said the Town could commit to reducing fees and being clear enough with requirements so that applicants could get through the process with one review instead of two or three.

Chair Targ said the premise of an ADU is a less expensive, smaller, subservient structure, creating opportunities for additional people in a limited area, in a way that is not character changing or obnoxious to a community. He said those units are categorically different from an ordinary structure because they are accessory, subservient, and perform a different function within the community, and it makes sense to have a different process of approval. He said the legislature recognizes that ADUs are different.

Commissioner Taylor said the goal is to harmonize the ADU to housing not housing to the ADU. Chair Targ said there is an ADU ministerial process that the Planning Commission supported and moved forward to create a separate pathway for ADUs. Associate Planner Cassidy said there is currently a pathway for ADUs of 1,000 square feet or under that would go directly to a building permit, being reviewed ministerial by staff. Chair Targ said the proposal is for a new pathway – a staff discretionary review. He said an alternate to that could be an expedited review with something like a warrant list item that goes to ASCC.

Commissioner Taylor asked if he could build 100% of the AMFA up to 1,000 square feet with a ministerial review. Planning & Building Director Russell said he could if it met all of the other requirements such as height, matching architectural style, not visible from a scenic corridor, etc. She said having a ministerial path is a requirement of state law. Associate Planner Cassidy said there is a cap on the size of the ADU itself of 1,000 square feet. She said if the AMFA has 1,000 square feet free, then it can be used for an ADU. She said if the ADU is attached to the main house, the 85% trigger does apply, but if it's a detached ADU then it can use up to 100% of the AMFA. Commissioner Taylor said he could go through the ADU ministerial path process to build to the 100% maximum and then turn it back into the primary living space, bypassing the normal review process.

Associate Planner Cassidy said 15 years ago Portola Valley was very unsupportive of second units so there were restrictions that any new outbuildings, such as a pool house, could not have full kitchens,

which was seen as the trigger or definition of an ADU. She said that has all changed. She said the 85% requirement speaks to the main house. She said the only restriction on use of AMFA is for the main house. She said in order for the main house to exceed 85% of the total floor area requires ASCC findings. Any building that is detached does not have that 85% requirement. She said the discussion is whether or not an attached ADU can also be exempt from the 85% review and findings at the ASCC level. In response to Commissioner Taylor's question, Associate Planner Cassidy said there are no specific requirements being proposed that the ADU be used a separate unit, so a person could build an attached ADU to maximum AMFA and then use it as regular living space. Commissioner Taylor said if the goal is to provide more housing by way of the ADU, and this creates a way to circumvent the design guidelines and the 85% rule for other reasons, it feels wrong.

Commissioner Kopf-Sill said it would be great to have someone build an ADU and rent it to a teacher or staff, or maybe they rent it their nanny or dog sitter. She said she would also not like to see people use the new looser rules to build bigger houses or bigger pool cabanas, but said she is resigned that use cannot be regulated. She said she hopes to find a balance between allowing things that fit within the character and design guidelines of the town, knowing that some people will use it for noble purposes and some will not.

Vice Chair Goulden said there are potential downsides, but also upsides in allowing the flexibility on how people use their homes over time. He cited examples of areas that change from a place for the nanny, to an ADU, to a place for the elder caretaker, etc. Chair Targ agreed and said trying to police how someone uses their property is challenging.

Chair Targ said this discussion was an overall observation on how the regulations impact each other and asked if staff had any questions. Planning & Building Director Russell said that if the next discussion was to be about staff discretionary review then staff would hold their questions because some of them may be resolved as that discussion evolves.

Commissioner Kopf-Sill said she was supportive of the outline as presented.

Vice Chair Goulden said he was quite impressed how the outline came together so well. He said he was not sure if the owner occupancy issue was covered. He said some of the things in the outline are new and special for ADUs and some are just reiterations of normal standard regulations and suggested the differences might be better clarified. Commissioner Taylor said he would prefer seeing exceptions to the rule rather than new rules. Vice Chair Goulden said two sets of code would be useful for a handout to owners and architects.

Chair Targ said life, health, and property kinds of issues are his primary concern, particularly issues related to fire and road safety. He said it may be embedded in there somewhere, but he would like to see it spelled out in some way to the various people that will be doing the reviewing.

Chair Targ said from an overall standpoint, the outline has all the things you'd want to see in a code. He said there will be further discussion about the specific items in the code.

Associate Planner Cassidy presented a summary of Item 2.a., Staff Discretionary Review. Staff asked the Commissioners to consider if the provided Staff Discretionary Review Policy answered questions and concerns around this new process and if the Commission was comfortable with the parameters of this review.

Vice Chair Goulden was supportive of the staff discretionary review process.

Commissioner Kopf-Sill was supportive of the staff discretionary review process. She was very supportive of the ASCC's suggestion to have one ASCC member being part of that process.

Commissioner Taylor asked where the public had a chance to weigh in on the staff discretionary review process. Planning & Building Director Russell said there would not be a public hearing, but neighbors would be notified by the applicant in advance of the application and then noticed by the Town and advised of a time period to provide comments. She said if the comments were significant, the project would be bumped up to full ASCC review. She said if the comments were not significant or could be mitigated through conditions, then those conditions would be added to the application. Commissioner Taylor said it did not seem that someone from the public would have accessibility to this type of administrative approval process or timeline, whereas with a public meeting, the neighbor would know exactly the day and time when that application would be reviewed and whether it was approved or disapproved. Vice Chair Goulden asked if a commenting party would be sent notification of whether the project was approved or not. Commissioner Taylor said the commenting parties should be notified whether or not a project was approved so they would know they had 15 days to appeal the decision.

Chair Targ said it should be indicated that any ASCC member, by their own motion, could agendize an application review without going through an appeal process with staff. He said the ASCC could then discuss whether they could rule from the bench or send it back to staff. He said while this may create some uncertainty, it will also give members of the community an additional opportunity to reach out to a member of the ASCC. He agreed there would need to be a time limit. Chair Targ said he was not proposing to put staff's ADU approvals on the consent agenda. Commissioner Kopf-Sill said the ASCC was supportive of one person from the ASCC being part of staff's review process and that they should be consulted about this suggestion. Chair Targ said he was fine with the Planning Commission making that decision.

Commissioner Taylor said in the vast majority of the projects, this is a non-issue. His concern is to make sure that somebody on the outside who sees something wrong has a place to appeal, and not just back to the same people who already approved it. Commissioner Taylor suggested that the ASCC and the people who asked about a project get notified if something is approved and advised of the appeal period.

Associate Planner Cassidy summarized Item 2.b., Staff Discretionary Review Triggers. Staff asked if the review triggers provided were appropriate and if, in combination, they would result in the appropriate level of review for projects.

In response to Chair Targ's question, Town Attorney Silver said because the issue has been raised that there might be some conflicts around all sizes of parcels, the discussion should be without regard to parcel size.

Vice Chair Goulden said the question at this time is if the triggers were appropriate and the discussion regarding specific square footages and percentages would come later.

Commissioner Taylor agreed that square footage and percentages are appropriate triggers.

Chair Targ said the lesser of an absolute number or a percentage of the primary residence is an appropriate trigger.

Commissioner Kopf-Sill said she was supportive of the triggers. She said in general, she did not think it was a good idea to give an incentive to duplicate a bad design, but was supportive of ASCC's decision to include a non-matching design as a trigger.

In response to Commissioner Taylor's question, Associate Planner Cassidy said currently any new construction on a scenic corridor cannot be approved by a ministerial review. She said the State law, however, does not allow the requirement for an internal ADU to go to ASCC simply because it is in the scenic corridor. Commissioner Taylor asked how design issues such as expanded windows and lighting would be addressed for internal ADUs. Planning & Building Director Russell said current code allows any minor changes to the façade of any building, such as adding or expanding windows. She said those are ministerial approvals of building permits and do not trigger ASCC review. She said an exterior lighting plan would need to comply with the code. Commissioner Taylor said a building permit goes to Planning, and they look at windows. Associate Planner Cassidy said that is a ministerial review and is a check against hard code, not design review. Associate Planner Cassidy said State law preempts a residence being in the scenic corridor as a trigger for further review if the project meets the other internal ADU requirements.

In response to Commissioner Taylor's question, Associate Planner Cassidy said State law says no setbacks shall be required for an existing garage that is converted to an ADU, and a setback of no more than 5 feet from the side and rear lot lines shall be required for an ADU that is constructed above a garage. She said this law applies to both conforming and legal non-conforming garages. Planning & Building Director Russell said someone can build an ADU atop a legal nonconforming structure with only a 5-foot setback, so the nonconformity could be increased according to the Town's code in order to comply with the State law. Associate Planner Cassidy said an applicant would be required to prove that the nonconforming structure was built legally by having a building permit on record. Planning & Building Director Russell stated this was one of the most controversial aspects of the State law in all communities. Commissioner Taylor asked how a structure built in the 1930s could be proven to be legal. Planning & Building Director Russell said one of the tools she's used over the years is the County Assessor's records with old diagrams that County Assessors used to draw and notate. She said if those buildings were in existence at that time, they look at when building codes went into effect. She said some judgment comes into play, and it is usually a determination made by staff based on the available records.

Commissioner Taylor asked who determined sufficient side and rear setbacks. Planning & Building Director Russell said that reference in the code comes directly from State law. She said the determination would be made by staff in consultation with the Fire Marshal.

Vice Chair Goulden asked if there were any additional triggers that could be considered regarding the fire and safety issues that would push an external project into discretionary review. Planning & Building Director Russell said the current ministerial review has a limit of 1,000 square feet. She said staff included the 1,200 square feet to be consistent with State law. Chair Targ said built into the internal and external review process via the building and fire code is the Fire Marshal's authority to preemptively abate a dangerous condition.

Vice Chair Goulden was supportive of having an AMFA threshold that triggers a discretionary review. Planning & Building Director Russell said there has been discussion around the 85-percent threshold. She asked if over 85% should be considered for staff discretionary review or if that should stay at the ASCC review level.

Commissioner Taylor asked if it would violate any of the new State laws if the ASCC imposed the 85% limitations to the ADU with the same findings as for the main house. Associate Planner Cassidy said the State law on ministerial review pertains to internal ADUs as long as there is also a path to ministerial review for external ADUs. Planning & Building Director Russell said there is language about not being overly burdensome. Commissioner Taylor said it is important that the 85% findings not be subverted on a main residence. Associate Planner Cassidy said the way this is written is that if you are proposing an attached ADU and the proposal does not create a main house greater than 85%, it will

not trigger discretionary review. However, staff is proposing a staff discretionary review for exceeding 85 percent. In response to Commissioner Taylor's question, Associate Planner Cassidy said if it were determined to require an ASCC review, and the ASCC could not make the findings to exceed 85%, then the ADU would not be approved.

In response to Chair Targ's request, Associate Planner Cassidy shared parts of the ASCC minutes that indicated the Commissioners' opinions about the review process for projects that exceeded the 85% threshold. She said Commissioner Ross was supportive of staff discretionary review with a rotating ASCC member to cover all of the individual design elements listed under that category in the staff report. Vice Chair Koch said that if one ASCC Commissioner is involved, they could decide if the findings could be met. Associate Planner Cassidy said the Commission was supportive of allowing staff discretionary review with a rotating ASCC Commissioner for the design elements of floor area, architectural style, location, 85% massing, and lightwells with some additional sensitivity regarding height. The ASCC agreed that having an ASCC member involved in the process would help mitigate potential impacts on neighbors.

Commissioner Taylor said he would be supportive of the ASCC making the findings for anything over 85%, and that it should require a public hearing and not just one ASCC member. He said the public needs to be there at the meeting because it impacts the neighbors.

Vice Chair Goulden said he would be supportive of letting the ASCC make that decision if they feel an individual member can handle it.

Commissioner Kopf-Sill agreed with Vice Chair Goulden.

Commissioner Taylor said he would want to talk with the ASCC about it. He said he could support it if they have fully considered the issues and have a reasonable argument for it, but he is not supportive of them just having a single person approving a bundle.

Chair Targ said he was comfortable with the ASCC's position, especially with how they've modified the staff discretionary review to require notice and the right of the ASCC to be able to pick it up.

Planning & Building Director Russell said a staff discretionary review process would require the same findings as the ASCC would make.

Commissioner Taylor asked if the building code required lightwells. Associate Planner Cassidy said if there is living space in a basement, the building code requires a lightwell. Commissioner Taylor asked why lightwells were being called out in this proposed code. Commissioner Kopf-Sill said if an applicant requests a larger lightwell than required, it goes to a higher level of review, to catch, for example, attempts to turn lightwells into large outdoor living areas.

Associate Planner Cassidy provided a summary for Item 3 – ADUs Must be Accessory in Nature, as detailed in the staff report. Staff asked the Commission to consider if the objective definition and discretionary finding for "accessory" provided effective tools for controlling this important element.

Commissioner Kopf-Sill said she initially did not feel that ADUs needed to be a lot smaller than the main house. She preferred two smaller homes, perhaps similar in size, to one large 7,000- or 8,000-square foot house with a very small ADU. However, after review of her colleagues' and the ASCC's comments, she understands the desire that the ADUs be subordinate and is supportive of that opinion. She pointed out that an unintended consequence could be that someone would build onto their somewhat modest house in order to meet the 60% to 70% requirement so they could build a good-

sized ADU. Associate Planner Cassidy said the 60% to 70% figure is only a starting point for discussion.

Commissioner Taylor asked why the maximum size is 2,000 square feet when Woodside has it at 1,500. He said the architect that spoke at the last meeting said 1,200 to 1,500 square feet. Associate Planner Cassidy said 2,000 square feet is the maximum possible. She said if they are considering removing maximum sizes according to lot area and allowing the AMFA to rule, there are a few very large parcels where the AMFA, and perhaps even the percentage, wouldn't provide a trigger. She said the 2,000 square feet figure is also just a suggested maximum and can come down. In response to Commissioner Taylor's question, Associate Planner Cassidy said the 2,000 square feet was not a trigger, but was a total maximum allowed.

Commissioner Taylor said if the ADUs are supposed to provide additional occupancy, somewhere in the process it should be affordable. He said the larger the ADUs get, the less affordable they are. He said renting out a 2,000 square foot ADU is not affordable. Chair Targ said renting out that 2,000 square foot ADU would free up pressure in other areas.

Vice Chair Goulden said all areas of housing must be addressed in order to make a real dent in it. He said the Town's objective is to make the ADUs valuable to the community. He said giving more flexibility on total size means there is more flexibility on usage moving forward. He said he has heard comments that downsizing from a very large house to a very small house is difficult. Commissioner Kopf-Sill said one of the main motivations is people that want to avoid tax consequences by downsizing to a newly purchased property, but would prefer to move into their ADU and rent out their bigger house. Commissioner Taylor said the Town values open space and low density. He said increasing occupancy is a good goal, but it was not meant to necessarily maximize the amount of buildable volume. Commissioner Kopf-Sill said this proposal does not change the buildable volume. She said that is always subject to the floor area maximum. She said the discussion is about how people can divide up their available floor space. She said she would like to see more square footage put to ADUs rather than main houses being built to maximums. She was supportive of a 2,000 square foot limit. Planning & Building Director Russell said in many cases there will be other limiting factors. She said staff provided the 2,000 square foot figure based on the different feedback they heard, which varied quite a bit.

In response to Commissioner Taylor's question, staff did not know how Woodside came up with 1,500 square feet. Associate Planner Cassidy said in some areas Woodside allowed two 1,500 square foot ADUs.

Chair Targ said the definition of ADU was not particularly instructive other than the floor area. He said there must be some law about the definition of an accessory use. Associate Planner Cassidy said the definitions shown in the staff report are in the Town's current code which was written many years ago. Planning & Building Director Russell said the definition of accessory use is very important because there are a lot of cross-references within the code regarding accessory uses. She said that integral to this work is coming up with the proper definition for ADU, which comes from the State law and perhaps augmented by the Town. She said that must have internal consistency and not create problems with the other definitions used in other places in the code. She said staff will still need to do that technical exercise. Vice Chair Goulden said it would be helpful if staff could do some investigative work to see other communities' definitions. Planning & Building Director Russell said they provided the Town's current definitions to show that we need something better. She said a better definition will be written.

Vice Chair Goulden said the discussion of owner-occupancy is a proxy for defining accessory units. He said the accessory side drove the owner-occupancy discussion.

The Commission was supportive of having a hard maximum and a percentage as triggers. Planning & Building Director Russell invited the Commission to discuss those numbers now or provide additional feedback so staff can better define the numbers.

Chair Targ asked how staff came to 60% to 70%. Planning & Building Director Russell said they came from the comments from the Commissioners and the public. She said they ran some numbers and test cases, and 60% to 70% seemed a reasonable place to start. Chair Targ asked Planning & Building Director Russell to describe the sensitivity testing that was conducted.

Commissioner Kopf-Sill described a one-acre flat lot that could have approximately 5,000 square feet of living area. With a 3,000 square foot house, the ADU could be up to 2,100 square feet at 70%, which fits generally within the 2,000 square foot suggested maximum. While Commissioner Kopf-Sill preferred being able to build larger ADUs, she was supportive of 70% as being the largest it could be and still feel subservient to the main house.

Planning & Building Director Russell said if the Commission felt these figures were reasonable, staff could look at more numbers and at existing house plans for comparison, if the Commission felt this would be useful information. She said staff did not want to delve too far into this until they knew if they were in the ballpark and that the concept of a hard maximum and percentage was supported by the Commission.

Commissioner Kopf-Sill said there were a lot of owners of older houses who were eager to build ADUs. She said new builders are building their main homes to the max. Commissioner Taylor asked if there was an easy way to gather information regarding actual floor areas compared with maximum allowed for properties in town. Planning & Building Director Russell said that information is on file for individual properties but it is not in a database.

Commissioner Taylor said he understood why it would be uncomfortable to move from a 4,000 square foot house to 1,500 square feet, but thought 70% of a 4,000 square foot house was quite generous. Chair Targ pointed out the cutoff would be 2,000 square feet – the lesser of 70% or 2,000 square feet. Commissioner Taylor said his concern is that this skews more density to smaller lots. Commissioner Kopf-Sill said the floor area maximum dominates so people are more likely to have already built to their max on a smaller lot.

Planning & Building Director Russell asked the Commission what additional information they needed from staff to think more about the percentage. Commissioner Taylor asked if it was true that the higher density neighborhoods have more houses at 85% or if they were at 50% and would add 50%. He said he is sensitive to the density issues in the small neighborhoods. Commissioner Kopf-Sill said the floor area maximums would take care of that issue. She said people are already allowed to build up to the maximums with other buildings, such as pool cabanas. Planning & Building Director Russell said everybody already has an imaginary AMFA building envelope on every property. She said this discussion is about how that imaginary building envelope is sliced up.

Vice Chair Goulden was potentially supportive of 70% up to 2,000 square feet, but perhaps starting a little lower, such as 60% up to 1,500 square feet, to see what the feedback is as they are actually built. However, he also noted that flexibility is the key to encouraging people to build ADUs.

Chair Targ said he thought very few people would build ADUs and to the extent the town can have more families and a different demographic, that should be supported. Commissioner Taylor asked how many ADUs Chair Targ thought would be built in the next 10 years. Chair Targ said the basic discussion is about elasticity of demand and the incremental growth anticipated as a result of the actions taken to make it easier to build ADUs. Commissioner Taylor said his concern was that this

would become an avenue to build but not increase occupancy. He said he understood there was no easy way to legislate or enforce it, but said there is a principle the Town is trying to accomplish, and there should be some way to make sure that principle is being incentivized. Chair Targ said the survey was meant to help guide in that regard. Commissioner Taylor said he is willing to prioritize affordable housing over density but not some of the other reasons, such as rarely-used guest houses. Chair Targ said the basic question is what impact ADUs will have in Portola Valley. He said the Town Council has provided direction on that. Commissioner Taylor said the direction is to create affordable housing while limiting the impact. Vice Chair Goulden said affordable housing is one of the goals, but there are many other uses, such as aging in place and housing for caregivers, which have nothing to do with affordable housing. Vice Chair Goulden said some will not necessarily do what the Town had in mind, but that is the price of doing anything. Commissioner Taylor said he agreed with the principle. He said he understood there was 10% noise in any complicated system that you just live with, but his concern was that they may be building something that was 80% noise, such as pool houses and cheese factories, and only 20% achievement of goals. He asked how to calculate that. Associate Planner Cassidy read a list of the number of ADUs permitted from 2001 to 2018. Chair Targ said there appeared to be a bump of approximately four units per year, probably as a result of actions taken by the Town.

Public Comment: Michele Morhenn, real estate agent for Coldwell Banker. Ms. Morhenn said a lot of people are talking about this issue – both buyers and current residents. She said one of the major things they are looking at is intergenerational living, both for the benefit of aging in place as well as being aware their children cannot afford to buy here. She said Dolores Dolan, who asked Ms. Morhenn to speak on her behalf, lives on a one-acre parcel with a 2,000 square foot house. She would like to build a house for the sole purpose of moving into it and then giving her existing house to her children to live in because they are currently renting in Palo Alto and will never ever be able to own a house otherwise. She said if there is a 70% cap, she could only build a 1,400 square foot house. She said in that situation, she would need to add onto the main house in order to be allowed more square footage for the smaller house. She said the people that want to live intergenerationally address a longer-term affordability issue rather than just renting to a teacher next week.

Planning & Building Director Russell said that the Housing Strategic Plan includes the expressed goals of older folks staying in the community, young people being able to come back to the community, and housing for employees in town.

Commissioner Kopf-Sill said there is value to people just knowing there is a real possibility that they could build an ADU.

Ms. Morhenn said Ms. Dolan has already spent \$12,000 to \$15,000 on plans that she hasn't even gotten to a review process. She said people would like more certainty in the process so they do not spend money on multiple design iterations.

Chair Targ suggested concluding the discussion at this point.

Planning & Building Director Russell said there were additional graphics for the remainder of the issues in the staff report that will be helpful in fleshing out some of the issues. She asked that, at the next meeting when these items are reviewed, the Commission thinks about whether there is consensus on these policy issues and, if not, how the Commission would like to navigate differences of opinion in order to reach consensus and move forward, and what support staff can offer to help with this process. Chair Targ asked Planning & Building Director Russell to flag issues where they do not see convergence.

Associate Planner Cassidy said there were two diagrams prepared to help illustrate the point where a large spread of opinion occurred and where there was some confusion. She asked if the Commission

would like to look at those two items simply to digest the information but not discuss. She said most of the items in Section 4 were additional information provided in the staff report but not a lot of different information for the presentation. She said, in particular, the discussion around basements was very confusing and could go two different ways and the diagram offered a lot of clarity.

Chair Targ agreed to view the diagrams.

Associate Planner Cassidy said that currently an owner is allowed to completely lower the footprint of an existing house to create a full basement fully below grade. She said it is living space, but does not count as floor area against the AMFA. She said the current ADU code is different with the basement floor area then counting against the AMFA. She showed the diagram showing the differences. She said the proposal is to have the basement ADU be restricted by the ADU size maximum, but not count that square footage against the AMFA. She said this brings it into alignment with the way the code is currently written for main houses. She said when there is exposure, it starts as a similar situation; however, the definition of basement then comes into play (18 or more inches of exposure along the side of the building), and triggers a partial basement, which would be counted as floor area, the same way for houses and ADUs. She said if someone put an entire ADU fully in the basement under an existing home, it would not count toward the floor area at all, but would still have the maximum ADU size that kept it from being considered a full-size house.

Associate Planner Cassidy said the Planning Commission almost unanimously said no to second driveways, and the ASCC almost unanimously supported second driveways with some additional conditions. Associate Planner Cassidy showed a diagram of examples. She said the ASCC would prefer a second driveway if it resulted in less impervious surface than extending the existing driveway. She said this would be limited to rare cases, such as properties of 2 acres or more, not crossing a trail, not onto a scenic corridor, and allowing for safe traffic movement.

Planning & Building Director Russell asked the Commission if the survey was a priority for staff time and resources to put out the survey and try to collect results. Commissioner Kopf-Sill said a survey would not help her with any of the policy questions. Vice Chair Goulden said he would have been more interested in what people want to do versus what people have already done with regard to ADUs, to get a feeling for the community's interest in ADUs and how they would want to use them. Vice Chair Goulden said if a survey is done in the future, it could help with the information side to see some of the creative things that are being done and, for example, how leases are set up.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(2) Commission Reports

None.

(3) Staff Report

None.

(4) News Digest: Planning Issues of the Day

Planning & Building Director shared an article of interest with the Commissioners – “Bay Area shopping malls have new focus: Building housing.”

APPROVAL OF MINUTES: October 17, 2018.

(5) **Planning Commission Meeting of October 17, 2018**

Chair Targ deferred approval of the minutes to the next meeting.

ADJOURNMENT [10:41 p.m.]