

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: Hasko, Kopf-Sill and Taylor; Vice Chair Goulden; Chair Targ
Absent: None
Town Staff: Laura Russell, Planning & Building Director; Arly Cassidy, Associate Planner

ORAL COMMUNICATIONS

None.

OLD BUSINESS

(1) Continued Review of Proposed Regulations for Accessory Dwelling Units (ADUs)

Chair Targ introduced staff's presentation at this fifth working session regarding ADUs.

Planning & Building Director Russell thanked the Planning Commission and the public for contributions made to this study process. She said staff hopes to return in January with a draft ordinance and formal ordinance language as well as the staff discretionary review policy for the Planning Commission's consideration.

Associate Planner Cassidy presented the staff report and a slide presentation regarding the continued review of regulations for Accessory Dwelling Units (ADUs), as detailed in the staff report. Staff requested that the Planning Commission ask questions, provide comments, receive public comments, provide feedback requested in the report, and identify any additional information that may require further discussion.

Associate Planner Cassidy described staff's additional research and analysis regarding fire safety, in conjunction with the Fire Marshal, and proposed policies for consideration by the Commission. She explained the discussions regarding the impacts of second addresses with regard to location of utilities, property value reassessments, and second driveways. As requested by the Planning Commission, Associate Planner Cassidy shared feedback received from the ASCC Chair regarding shared parking, utilities for second addresses, and the ability of the ASCC to call up staff discretionary review decisions. She provided the requested information regarding building code upgrades, ADUs in non-residential zones, and feedback from the Fire Marshal. Associate Planner Cassidy presented the revised draft code outline, the draft staff discretionary review policy, and the draft ADU application path handout. She described the CEQA review process and next steps, as detailed in the staff report.

Chair Targ suggested addressing the full array of discussion items except for the fire issues, as Commissioner Taylor will need to recuse himself from that discussion. Chair Targ said he will not recuse himself from that discussion because, although he is within the Hayfields area, there are no properties that can be developed within the location of his property that are less than one acre, which is the proposal concerning applicability before the Commission. Chair Targ suggested the fire issues item be discussed first.

Chair Targ invited questions from the Commissioners.

Commissioner Hasko asked for clarification regarding the ASCC's ability to call up staff discretionary review decisions. Associate Planner Cassidy explained that in the staff discretionary review process, staff would conduct the analysis, an ASCC member would review the project with staff, and a recommendation would be made. Staff and/or the ASCC member would then have the ability to determine that the project requires being elevated to the ASCC review process.

Commissioner Kopf-Sill asked about the building code requirement that all units must have exhaust fans in the bathroom. Associate Planner Cassidy said that ADU requirement would not trigger the need to add a bathroom exhaust fan in the main house.

Associate Planner Cassidy noted that, per the Building Official, upgraded plumbing fixtures is the only upgrade that applies throughout the property. Planning & Building Director Russell said the upgrade is related to water efficiency, and thus is a very strict code. In response to Vice Chair Goulden's question, Associate Planner Cassidy confirmed that most of the listed upgrade requirements are not ADU-specific and apply to all additions including cabanas, guest houses, etc. She said the only ADU-specific requirements are the fire separation and the separate 100-amp subpanel.

Commissioner Taylor asked about the one-hour firewall and if it was the equivalent of the garage requirement. Planning & Building Director Russell said it was equivalent and is a well-known fire separation standard customarily done in different methods of construction.

Commissioner Taylor said he thought residential exhaust fans were not required. Associate Planner Cassidy said she would check again with the Building Official. She said that details are in the staff report for reference; however, the code will simply state "current building code applies."

Commissioner Taylor asked how many CUPs are limited to specific uses versus the more general allowance of certain uses. Associate Planner Cassidy said the Village Square has a list of specific limited uses. She said the current zoning for CP and AP commercial zones is very limited as to what is allowed by right. The CUP then allows from a long list of possible uses. Commissioner Taylor he would want to understand whether these rules would apply or not to the existing CUPs or if they would be restricted out. Planning & Building Director Russell said, based on the preliminary research done, staff thinks that some of them will be restricted out. She said the CUPs vary a lot over the different years, ranging from the time of Town incorporation to modern day. She said to complete the very detailed research would be very time consuming for staff. Commissioner Taylor asked roughly how many CUPs the Town had. Associate Planner Cassidy said there are currently probably hundreds of existing CUPs. She said some residential properties have CUPs, and a lot of the commercial properties have layers of different CUPs with many years of amendments.

Vice Chair Goulden said he thought that the Fire Marshal was interested in a separate address regardless of whether there was a separate driveway because it identified there were people to look for. Associate Planner Cassidy said the Fire Marshal was supportive of separate addresses in general because it makes it easier; however, it was not a hard requirement or recommendation of the Fire Marshal at this time. Planning & Building Director Russell added that the Fire Marshal made a strong recommendation that a second address should be required if there is a separate driveway.

Chair Targ asked if the Fire Marshal had any view with respect to attached versus unattached units. Planning & Building Director Russell said the Fire Marshal did not provide any specific feedback, and it was not a question that was asked of her. In response to Chair Targ's question, Planning & Building Director Russell said the recommendations were reviewed with the Fire Marshal verbally and, after

tonight's feedback, staff will provide the draft code outline to the Fire Marshal for another round of review.

In response to Chair Targ's question, Planning & Building Director Russell said the CEQA language will be formalized, developed further, and reviewed by the Town Attorney.

Chair Targ asked if additional trip generation was anticipated as a result of the ordinance. Planning & Building Director Russell said that could be a possibility, but she does not think it would rise to the level of significant under CEQA. Chair Targ suggested there be analysis of that to support it in the CEQA section.

Commissioner Taylor asked, as a general question, if he could stay at the meeting tonight and speak as an interested citizen. Planning & Building Director Russell said the preference of the Town Attorney and the customary procedure in Portola Valley is that the conflicted Commissioner leave the room. Chair Targ suggested the Town Attorney weigh in on that in advance of the next meeting.

Due to a conflict of interest, Commissioner Taylor recused himself and left the room for the discussion of the proposed separate policy document with restrictions on properties less than one acre with primary access from Hayfields, Santa Maria, and Wayside.

Chair Targ invited public comment.

Kiki Tidwell, 20 Holden Court. Ms. Tidwell said she is a relatively new resident and brings a different perspective than long-term residents. She said that she and others like her, who are just now getting involved in this, have very strong concerns that perhaps the Commission may not have been hearing. She said the safety of the egress and ingress to her residence in a cul-de-sac has been a consistent theme for the four years she's been here. She said she is from Idaho and speaks from the perspective of someone who has had to evacuate three times for fires, has had balls of flames heading toward her house, has had to turn on irrigation sprinklers, and has evacuated all her horses and animals. She said the design of Alpine Hills is brilliant with lovely cul-de-sacs without a lot of traffic, and where all the neighbors get to know each other. She said she has written letters recommending undergrounding the overhead electrical lines. She said if a line goes down, there is no way her elderly neighbor across the street, who is on dialysis, will get out of the cul-de-sac. She said if a couple more ADUs cause more cars to park on the street, further blocking the ingress/egress in the cul-de-sac, they will not get out either. She said in the Camp Fire, people died in their cars in traffic jams trying to get out or trying to run from their abandoned cars. She shared photographs of the traffic jams and abandoned cars during the Camp Fire. She said the Town requires the building of two-car garages, but does not require that cars be parked in them. She said ADUs will add more cars parked outside. She said more people can live in larger ADUs, which brings more cars. She said this change affects the citizens' safety and quality of life, and there is no element of parking enforcement. She said ADUs should not be added on residences in cul-de-sacs where there is only one way in and out and where there is not enough room for street parking. She said she did some research on the units at the Vi in Palo Alto and learned they start at 826 square feet. She said a 1,700-square-foot unit is nearly the size of her house.

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

Commissioner Hasko said the impact of greater density on safety has been a common theme and concern of the Commission, and in particular, fire safety. She said this is a timely moment for those concerns to be articulated and, as the speaker highlighted, we are all vulnerable here. Commissioner Hasko said the proposal is that an additional policy document be considered for the called-out neighborhoods and to look at making an ADU more flexible in those neighborhoods while still preserving safety. She said in the big hierarchy for her, safety is a premium, and the Fire Marshal's

comments should be taken very seriously. She was supportive of being cautious before extending more flexibility on ADUs to the smaller parcels and increasing density in the areas mentioned (Hayfields, Santa Maria, Wayside). She said there may be a way forward and some rules and guidelines that could be achieved, but it can't be done all at once, and it is not appropriate to do it now. She said that piece should be worked on separately.

Chair Targ asked Commissioner Hasko if she wished to not address the fire safety issue at this time and instead do it comprehensively or to move forward with staff's recommendation to limit the size of ADUs in specific neighborhoods and then have a more general discussion about fire safety with respect to ADUs. Commissioner Hasko said that will depend on what is going to be put up for the Town Council's approval. She said the Commission should move forward on the things that are fairly straightforward where the Fire Marshal has not noted a particular concern about ingress/egress and density. She said she does not want to put everything on hold waiting for a broader fire policy. Commissioner Hasko said if the Fire Marshal is convinced that the fire concerns are particular to certain neighborhoods, being more flexible on those units should require an additional fire policy. She said where those issues aren't present, the Commission can move forward on an ADU process that makes sense more generally.

Chair Targ said the specific recommendation within the ordinance to address the items in the fire policy is to not allow ADUs on lots less than one acre in size within the three called-out neighborhoods. In response to Vice Chair Goulden's comment, Planning & Building Director Russell said the State law requirement for internal ADUs up to 1,200 square feet remains in place. The existing code that was adopted approximately a year ago in order to come into compliance with State law has ADUs on parcels of one acre or more up to 1,200 square feet. She said those people currently have development rights in their properties for ADUs. She said the current proposal before the Commission would lift that restriction for the one-acre properties across town, because there are other one acre properties that don't have these unique characteristics, and put in place a limit of up to 1,700 square feet. She said if the restriction is lifted on all parcels across town, there is no way to limit ADUs in the neighborhood where there was concern from the Fire Marshal. For this reason, Planning & Building Director Russell said the proposal is to impose a restriction specifically for the areas of concern, and then ask the Town Council what further steps they would like staff to take regarding further study, restrictions, and monitoring.

Commissioner Hasko said, setting aside her concerns about the overall size of ADUs which have not changed, she would want to impose a restriction in the called-out neighborhoods to make sure the fire safety policies are appropriate. Commissioner Hasko asked if the Fire Marshal's comments were based on the size of the streets coming in or just the parcel size. Planning & Building Director Russell said the Fire Marshal called out streets that did not have a width of 18 feet. Commissioner Kopf-Sill said these called-out areas had narrow roads and ingress/egress issues, but there were likely other areas in town with narrow roads but with multiple ways in and out. Commissioner Hasko asked Chair Targ if the rule would be that the fire policy will dictate remaining status quo on all parcels under one acre or just in these called-out areas. Chair Targ said it would apply just to the called-out neighborhoods.

Commissioner Kopf-Sill was pleased that the roads have been addressed by the Fire Marshal. She was supportive of staff's proposal. She was supportive of the proposal being applied to the less-than-one acre lots that are not in the three called-out neighborhoods. She said residents at the study sessions she attended clearly expressed the desire to build ADUs on smaller lots. Associate Planner Cassidy said the Fire Marshal is more concerned about the creation of new units than the size of them. She explained that the proposal is to place additional limitations on the lots that currently are not allowed to build ADUs and maintain the rights of the lots over one-acre in size regarding ADU size because they already have the ability to build the units. Planning & Building Director Russell said staff

would like any feedback from the Planning Commission regarding recommendations or concerns around this issue.

Chair Targ said the new rules would not apply to parcels of one acre or less within these three neighborhoods; however, if the parcel is larger than one acre, the flexibility in size would apply.

Vice Chair Goulden said he was comfortable with the restrictions on the identified neighborhoods. He would love to see the Town conduct a more general comprehensive discussion around fire safety with the hope that if that work got done, it would supersede what the Planning Commission is doing now. He said that given the concerns that have been raised, he would not feel comfortable having the extra flexibility in the called-out areas. He said in the short term, prior to any general review on town fire safety or how that might modify code overall, he is supportive of moving forward with staff's proposal.

Chair Targ asked staff for clarification regarding the issue of shared parking. Associate Planner Cassidy explained that on properties one-acre or larger, which already have the right to build an ADU, the current requirement is two covered parking spaces and two additional guest parking spaces. On properties that include the appropriate four spaces, the proposal is that the required one parking space for an ADU would be allowed to overlap with one of the guest parking spaces, therefore not requiring the creation of a fifth parking space. She said this would apply to all the properties in the neighborhoods being discussed that would potentially have the right to build an ADU.

Chair Targ asked regarding the Fire Marshal's views on the shared parking. Associate Planner Cassidy said the Fire Marshal had some concerns about the impact of on-street parking on access. She said the conversation focused mostly on the called-out neighborhoods. Chair Targ suggested compliance with the Fire Marshal's advice and require the fifth parking space for the ADU. In response to Associate Planner Cassidy's question, Chair Targ said this recommendation was for the whole town and not just for the three called-out neighborhoods. Vice Chair Goulden noted that this only affects parcels larger than one acre.

Vice Chair Goulden said it sounds like there are general concerns about how the Town's general parking requirements affect overall fire safety. He suggested that it be recommended to the Town Council that parking be a part of any larger issue of fire safety. Chair Targ agreed. He said a list is being made of additional items to take into consideration.

Chair Targ asked staff to solicit feedback from the Fire Marshal on the issue of the pinch point created by cul-de-sacs at the time the draft ordinance is reviewed with her. Planning & Building Director Russell said there are fire code requirements with a numerical standard for the length of cul-de-sacs, and how many units it can serve and still be a cul-de-sac. Chair Targ asked if that took into consideration an ADU as an individual unit or if it would be accessory to the primary unit and not be counted. Planning & Building Director Russell said she will research that question.

Chair Targ also recommended a member of the Planning Commission meet with the Fire Marshal as she's reviewing the draft ordinance. He asked for a volunteer. Commissioner Kopf-Sill volunteered and Commissioner Goulden was also available.

Planning & Building Director Russell asked if there was consensus in the Planning Commission regarding shared parking for ADUs not being allowed anywhere in town.

Commissioner Kopf-Sill asked about the parking requirement for a half-acre property. Associate Planner Cassidy said there would be no change to the existing code if the ADU required an additional space, then it would need to be provided. Commissioner Kopf-Sill said she previously expressed concern because she was concerned about jammed-up roads. She said she went out at 5:20 a.m. and

drove every road in Alpine Hills to see how many cars are parked on-street at that hour. She said there was only one car parked on-street, on Holden Court. She then drove the more major roads in Corte Madera. She said there were two on Corte, Madera barely on the road, two on Canyon, two on Prado and none on Wayside. She drove Westridge to Possum and all the roads off Cervantes, and there were zero cars. She said her conclusion was that on lots of one acre, there is not a parking problem with residents. For this reason, she is supportive of not requiring a fifth parking space for an ADU and allowing the ADU to share a parking space with the main unit.

Commissioner Hasko said her concern is that once more ADUs are allowed, the parking pressure will be there. She said her concern is more about safety, environs, and Corte Madera school kids having to navigate around cars blocking trails along the roads. She said she supports the shared spaces other than in the called-out areas where there are potential fire safety issues because of increased density.

Vice Chair Goulden said there is probably room to add another parking space on lots larger than one acre. He said does not think sharing a parking space will make much difference. He said he would lean toward going with the Fire Marshal's recommendation.

Chair Targ said he wants to know what the Fire Marshal thinks is safe and would support whatever the Fire Marshal recommends.

Associate Planner Cassidy asked if Commissioner Taylor should also vote on this item as it does not specifically pertain to the fire policy issue, but is a Fire Marshal recommendation. Chair Targ said it applies generally across town so Commissioner Taylor may address it.

Chair Targ allowed another public comment.

Kiki Tidwell, 20 Holden Court. Ms. Tidwell cautioned that if the Commission is picking certain streets over others, they are picking winners and losers of who are allowed to have ADUs or not. She said if anything is over the regular State requirements, it becomes a Conditional Use Permit and every particular situation can be evaluated as it comes up to make sure that's the right application for that location. She said, while she appreciates Commissioner Kopf-Sill's effort, driving around anecdotally on one night is not a complete study. She said now the Commission is suddenly choosing three streets. Chair Targ explained that the three called-out streets are uniquely situated with substandard roads that have no ingress or egress other than for those communities and that are located in extreme fire danger areas. Ms. Tidwell said she would like her cul-de-sac to be added to that list. Chair Targ said the Planning Commission will be requesting that the Fire Marshal also look at the issue of cul-de-sacs.

Associate Planner Cassidy asked for clarification regarding the Commission's position on staffs proposed language regarding fire safety. Chair Targ said he is fine with it with the Fire Marshal's concurrence and also input regarding the issues of cul-de-sacs and parking, and the additional recommendations that will come out to Council regarding fire considerations generally and fire considerations with respect to ADUs.

Chair Targ called for a seven-minute recess, to reconvene at 8:27 p.m.

Commissioner Taylor rejoined the meeting. Chair Targ said the Commission would now deal with the balance of the issues other than fire, as well as the entire draft code outline.

Chair Targ invited public comment.

Kiki Tidwell, 20 Holden Court. Ms. Tidwell reiterated some items for Commissioner Taylor's benefit. She said Alpine Hills was designed, for the good of everyone, so that there are large open spaces, -- some on unbuildable hillsides and some flat. She said she has non-buildable open space on a hillside and could not add an ADU. She said her neighbors could have buildable space. She said some people will benefit at the cost of others. She cautioned the Commission to have all ADUs over the State maximum require a Conditional Use Permit so that each situation can be studied. She said there could be the ability to make them larger, but she does not necessarily think larger will be better because there will be more parking required for larger units. She said people tend to crowd into units in this expensive real estate market, and her major concern is that the new ordinance will allow people to turn garages into ADUs with even more people parking in driveways and on the streets. She said this will create a situation where neighbors get upset with each other because the Town will not police the parking issues that will be created by the larger ADUs.

Virginia Bacon, 205 Golden Oak. Ms. Bacon asked about the proposed requirement that new utility infrastructure installed to serve an ADU must be grouped with the existing infrastructure for the main residence or use. Ms. Bacon said she thought the intention was to reduce things such as impervious surfaces. She said this requirement might not achieve that because the applicant may need to install a long run from where the utilities are attached to the house. She said at her house, for example, it would have to go through patios and drain field. She said having a separate meter at the second driveway would be a much better solution. She said things that discourage ADUs should not be in the ordinance.

Commissioner Kopf-Sill said that would be true in the special case where a separate driveway was warranted or made sense, but the bulk of properties have only one driveway. She said they are trying to avoid the multiplication of utility boxes that are close to the road so that an ADU's utility box would be located adjacent to the existing utility rather than 20 feet away. Ms. Bacon said most houses do not have big utility boxes. Commissioner Kopf-Sill said she has noticed that instead of being up at the house, more utilities are at the roadside.

With no further public comment, Chair Targ closed the public hearing and brought the draft code outline back to the Commission for discussion.

Vice Chair Goulden said the Commission said that in very special circumstances, second driveways might be allowed, and the ASCC agreed that might make sense in some cases where it would result in less impervious surface. He said the thought was to be quite restrictive due to the concern that a lot of second driveways would appear to basically create subdivided lots. He said the restriction of the utilities, identification, and mailbox being grouped together did not allow for the provision where there was a second driveway. He said it would be odd to have a separate driveway to a separate address, but have the utilities and mailbox grouped with the main house.

Commissioner Kopf-Sill said the utility infrastructure is referring to the electric or gas meters that are in boxes along the road. She said if the utility is going to be at the road, they should be grouped together so they do not multiply. She said if the meters are on the structures and not on the street, they should not both need to be on the main house. Associate Planner Cassidy said there are a number of different concerns that come into play. She said one is where the utility wants the meter and their ability to access it. She said if the utilities are already adjacent to the house, there should be a standing easement for permission to enter the property, which may be for the property as a whole or for a specific path along the driveway. She said where utilities are grouped also has implications to the cost of trenching to them.

Commissioner Taylor said that issue would be between the owner and the utility. He said the Commission's goal is to reduce clutter at the street. He said it is not the Commission's concern whether the owner wants to put the meters on the main residence or the ADU, but the Town does not

want five more boxes put on the street. He said if adding boxes to the street is necessary, then they should be grouped together. He said that today, there are cable boxes, telephone boxes, water shut-offs, and other utilities, and the Commission's intent is to control the propagation of those utilities on the street. Commissioner Taylor said this does not apply to a mailbox which would make sense to be at the end of the driveway. Planning & Building Director Russell said that clarification can be made to the code. She said it could say when the utilities are visible from the public right of way, then they shall be grouped and screened to the extent feasible as determined by the Planning Director.

Commissioner Hasko asked how such a requirement would apply in practice. Commissioner Hasko said if the Director is comfortable that the language alone gives that discretion, then she could support it. She asked Planning & Building Director Russell if it was clear that the burden is not on the tenant to uproot the tree in order to cluster the utilities at the street. Planning & Building Director Russell said she would feel comfortable implementing it with the change "to the extent feasible." She said there have been similar screening requirements for utilities in other cities and towns, and it implements pretty well in practice. She said sometimes they will hear from PG&E that something is not feasible, and they then use the normal rationale used for approving everything else – considering things such as if there are significant trees, if there is an addition of impervious surface, if the pad is bigger than necessary, etc. Chair Targ asked Commissioner Hasko if the concern was the use of the word "feasible" instead of "practical." Commissioner Hasko said she's not sure how the requirement would be applied in practice. She said she would not want there to be an obligation for trees that are otherwise appropriate for the location to have to be harmed, which is counterproductive. She said as long as in practice "to the extent feasible as determined by the Director" gets you there, then she can support it. She confirmed with staff that this language is limited to utility boxes at the street. Chair Targ suggested "to the extent feasible taking into consideration factors of cost, topography, geology, natural landscape, etc." Planning & Building Director Russell said staff will add criteria language to ensure the intent behind the requirement is clear.

Commissioner Taylor said, with regard to converting existing floor space in non-residential areas, if the subject property is already overbuilt, they should not be allowed to add an ADU, even if they are using existing floor space, because the density of use would be increased on something already overused. He said ADUs should not be allowed in a legal nonconforming situation. Planning & Building Director Russell said ASCC review would be required. She asked if that would be enough to mitigate his concerns about things like lighting, night usage, and parking. Commissioner Taylor said it should conform, and conversion on something already nonconforming should not be allowed.

Planning & Building Director Russell asked if there were other Commission comments on this topic.

Commissioner Hasko said she had confidence in the ability of the ASCC to navigate that and did not feel the need to legislate for something so remote. Vice Chair Goulden and Commissioner Kopf-Sill agreed with Commissioner Hasko. Chair Targ said he understands the issue raised and thinks it is an outlier and can be handled by the ASCC.

Commissioner Taylor suggested giving the ASCC clear direction that they need to look hard at conversions in legal nonconforming situations. Chair Targ directed staff to solicit the ASCC Chair's opinion regarding this issue.

Chair Targ went through the draft code outline. Planning & Building Director Russell asked that the Commission provide input for items noted in bold red in the outline included in the staff report.

In response to Chair Targ's question, Planning & Building Director Russell confirmed that the policy document referenced in Section 3.b.ii was the fire safety policy document. Commissioner Kopf-Sill said she understood this policy document to only apply to the three called-out neighborhoods. Associate

Planner Cassidy said the applicability section applies only to parcels smaller than one acre, which enables all the Commissioners to vote on it and does not conflict anyone out. She said the intent of this policy document is to apply only to the area of concern linked to the three streets as previously discussed. Chair Targ said this is essentially a land use regulation, and in order to be enforceable, it must be by way of an adopted ordinance and not by way of resolution. He said it could be adopted by way of a separate resolution that would be harmonized by Council. He said there is one Councilmember that lives off of Wayside, and there will need to be a separate ordinance concerning the fire issues, assuming we want to allow that person to participate in the discussion of the ADUs more generally. He encouraged staff to touch base with the legal counsel regarding this.

Commissioner Goulden was supportive of the new language in Paragraph 4, Development Standards – “Further, an ADU shall comply with all applicable current building code requirements, including those which apply to individual or separate dwelling units, as warranted.” He said the more commonality with all of the existing regulations and not having special things around ADUs is the best way to go.

Commissioner Kopf-Sill was supportive of staff’s recommendation for Paragraph 4.

Chair Targ was supportive of the language, but was concerned with the phrase “as warranted.” Associate Planner Cassidy said the phrase refers to the preceding words “individual or separate dwelling units.” She said the fire separation would only apply to attached ADUs, and a separate structure, whether an addition to the house or an ADU, would have the same building code no matter what. Chair Targ suggested adding “except as expressly identified in this section” so that it is not discretionary.

Vice Chair Goulden commented about Section 4.a.ii, allowing two detached ADUs only if one is created by converting existing floor area in legal structures. Planning & Building Director Russell explained that this was existing code and agreed the language was awkward, but captured that existing buildings have different conditions than new buildings. Vice Chair Goulden said this could create a situation where people may be encouraged to game the system by building a detached barn and a detached ADU and then later “converting” the barn to an ADU. Planning & Building Director Russell said because it is the existing code in place today, and if the Commission wanted to propose a change to Council, staff would want to provide rationale for changing it, since it would limit the ability that some people have in place. Vice Chair Goulden was in favor of allowing two detached ADUs without requiring that one be a conversion, thereby avoiding the need for residents to game the system. Commissioner Taylor said this section essentially limits the total number of buildings. He said he could be supportive of a limit of two outbuildings and that they could both be detached ADUs.

Commissioner Hasko was not in support of changing the section. She said the goal is to balance increased flexibility on housing with preserving the rural character of town. She said one of the themes is how many buildings and how much encroachment and visual building will be allowed. She agreed with the point about gaming and said there may be a way to think about that, but she is not as concerned about that today. She is concerned, however, about having three buildings on a property.

Commissioner Kopf-Sill asked if the barn would count against the AMFA. Associate Planner Cassidy said generally speaking, if it is unfinished space and does not have a ceiling height of 7 feet or more, then it is not AMFA. She said an outbuilding of 120 square feet that is unfinished and clearly a shed does not count. She said staff looks at ceiling heights with attics and crawlspaces that are sometimes finished for storage.

The Commission agreed that the section need not be changed at this time.

Associate Planner Cassidy said a definition was added on Page 1 describing the time necessary for something to be considered existing space. Commissioner Taylor said he understood the attempt to get applicants to declare their intent, but at the end of the day, the applicant has built the same thing with the same impact, and all the Town has done is create an artificial 12-month hurdle. He said it seems the gain is not worth the hassle. He asked why the Town required a one-year wait before being allowed to call something an ADU. Associate Planner Cassidy said the idea is that the conversion of existing space is per State law a ministerial permit. She said there was concern expressed at this Commission around reviewing ADUs as ADUs. She said there is the hypothetical possibility of someone applying to build a small addition that might not trigger ASCC review or it might be reviewed as an expansion of existing house space, and then later adding a kitchen and going through the ministerial conversion process bypassing the discretionary review process for the changed use to a separate unit. Commissioner Taylor said the goal is to make it easier to build ADUs and not make it more difficult. He said he understands the principle but does not see a real gain. Associate Planner Cassidy said that code section can be eliminated. Planning & Building Director Russell said there is value that when something comes in as an ADU application it's going to trigger neighborhood notice, which continues to be a major theme through the conversation. She said this is a soft encouragement for people to apply through the proper channels.

Commissioner Kopf-Sill was in favor of the code. She said because of the State-required ministerial review for conversions there is incentive for applicants to game it by latching onto that State-enforced fast path to bypass the normal review process.

Commissioner Taylor said if someone built something as a non-ADU, it would have to go through ASCC. Associate Planner Cassidy said it probably would, but it would go through as an expansion of the house, and the notice to the neighbors would describe the project as, for example, a new family room. Vice Chair Goulden said if the neighbors knew it was really going to be an ADU, the neighbors may be more encouraged to speak out.

Chair Targ invited comments regarding Paragraph 4.b.i and 4.b.ii with regard to maximum size of an ADU being set at 1,700 square feet and that an external ADU cannot exceed 70% of the floor area of the existing or concurrently proposed main residence or land use.

Commissioner Taylor said he accepted the compromise at 1,700 square feet as a maximum size, but said that 70% is too high of a percentage of floor area. He said it feels more and more like subdivisions with big second houses being built. He said he could live with the 1,700-square-foot maximum, but 70% is a potentially big impact on a smaller lot. He prefers the State's maximum of 50%.

Vice Chair Goulden said when they did the sample calculations, when looking at AMFA and overall buildable space, the only people who could do this had quite large lots with existing small houses where they could almost turn it around and declare the existing house as the ADU and the new house as the main structure. He said he was supportive of 70% to provide for maximum flexibility, especially since it would rarely be an issue and would only apply to an old property that nobody has redeveloped.

Commissioner Taylor said he was fine with building a new residence that is 50% larger than the existing residence, and then declaring the original residence as the ADU. He said his concern is the relative proportion so that lots do not have two residences of similar size and that the proportion of the ADU is clearly subservient to the main residence.

Commissioner Kopf-Sill asked Commissioner Taylor why he would prefer one 3,000 square foot house and a 1,200 square foot ADU over two 2,000 square foot houses. Commissioner Taylor said having two equally sized homes is basically subdividing versus having one larger home and one that is clearly

an ADU, smaller and subordinate to the main home. Commissioner Kopf-Sill said she would prefer allowing two 2,000 square foot houses over one 3,000 square foot and one 1,200 square foot.

Vice Chair Goulden said one of the themes he struggles with is how to make things subordinate. He said this process is not meant to subdivide, but is meant to provide accessory dwellings. He said although they are called accessory, legal enforcement of that is very difficult. He said applying a percentage cap is consistent with the point of the view that they should be accessory and subordinate. He said he was initially supportive of 70 percent due to the maximum flexibility, but he doesn't think that's going to come up very often.

Commissioner Kopf-Sill said staff provided examples of two lots of similar size, with one having a 2,000 square foot home can only build a small ADU whereas the person that has a much larger house can build a larger ADU, which penalizes the people that live in a modest house. She said she likes the charm of the older neighborhoods with small ranch houses and wants the flexibility to accommodate people who have lived here a long time by allowing a larger ADU. She said if people are not allowed to build something that they could move into comfortably without dramatically downsizing, the alternative is the property is sold, the house is torn down, and the largest house possible will be built in its place.

Commissioner Hasko said she understands she has the alternative view on this issue. She said she has been looking at affordable housing for many years. She said the allowable size of ADUs has increased over five years from 750 to 1,000 square feet and now to 1,200 square feet. She said she reread some of the minutes during that time, and it was controversial trying to figure out what size ADU was consistent with the General Plan. She said the General Plan's Major Community Goals are to "Conserve the rural quality of Portola Valley, maintain the town as an attractive, tranquil, family-oriented residential community for all generations, compatible with the many physical constraints and natural features of the area." She said one is also "To control the size, siting and design of buildings so that they, individually and collectively, tend to be subservient to the natural setting and serve to retain and enhance the rural qualities of the town." Commissioner Hasko said she believes a 1,700 square foot structure is not accessory and is basically a small house. She said the Town might have multiple needs, one of which is to create this type of flexibility with this proposal. She said initially, the goal was increasing housing options and affordable housing, but a 1,700 square foot house is not particularly affordable. She said there is a danger of impacting the town's look and feel. She said it is too quick to move to such a different approach to allowing what could be viewed as subdivision. She said that could undermine what people love about this town. She was concerned that too many factors were being considered at once and going too quickly. She was supportive of most of the changes to decrease the barriers such as ministerial reviews, separate addresses, etc., but is not supportive of increasing the ADU maximum size and wanted it to remain at 1,200 square feet. She said a larger size may be necessary over time, but she does not think it is currently necessary.

Commissioner Taylor asked if Commissioner Hasko would put a 1,200 square foot ADU on a lot with another 1,200 square foot unit. She said she would. She said if the goal is to create something where, for example, a disabled grandmother could live next door, which requires 1,200 square feet, she could be supportive of that. Even though she thinks the mathematical calculus is elegant in the way that it scales, she said there is a minimum size that people think is practical for the aging in place agenda, which seems to be 1,200 square feet. She said she'd like to see that play out for a while.

Vice Chair Goulden said he agreed with Commissioner Hasko in many ways, but ended up with different numbers. He said there has been a real evolution since those regulations were first written, and the number of ways people are thinking of using ADUs has gone way beyond the idea of renting out a little room, and now includes such examples as having the father-in-law stay to age in place, or the kids not being able to get homes and things like that. He said the evolution of size comes from a lot of people's ideas of how to use those spaces. He said there is a lot of feedback that people would like

to do more. He said he also heard that 1,200 square feet is too small for ADA compliance. Commissioner Hasko said she would like to see the numbers because she thinks that at Vi and the Sequoias, people have different living arrangements. Chair Targ said the General Plan does call out diversity of living options. Commissioner Taylor said there are multiple conflicting goals. Chair Targ said that's the tension and what makes this a difficult and interesting project to work through. He said the Sequoias and other more institutional environments are designed specifically to get people out of their units in a variety of ways, one by making them small, and also having much more interesting shared and common areas.

Vice Chair Goulden said if people are not given enough flexibility on size, they will work around it by calling their buildings pool houses or guest houses.

Chair Targ said he was supportive of the larger size, something proximate to 1,700 square feet. He said the number was like 1,400 or 1,500 square feet in order to be ADA compliant. He said the opportunity provides both demographic diverse options for the community, which is valuable.

Commissioner Kopf-Sill said her preference is no maximum size for the ADU, but it must fit within the AMFA, and it didn't matter if it was a pool, cabana, or other things. She said she compromised down to 2,000 square feet and then down to 1,700 square feet.

Commissioner Taylor supports Commissioner Hasko, but accessibility will require more than 1,200 square feet. He said he liked the idea of perhaps going to 1,400 square feet now, and in two years, perhaps going to 1,600 or 1,700 square feet, rather than just making this big jump now. He said staff has indicated that every time the square footage allowance is increased, people build to whatever the new maximum is. Commissioner Kopf-Sill said there was actually a low percentage of people who came in with applications to build to new maximums. Associate Planner Cassidy said some people build to the max, but not all. Commissioner Kopf-Sill said her understanding was that there's a little bump in applications because people want to wait and see what the new rules are. Planning & Building Director Russell said when there's a code amendment, there's usually a bump and an increase in applications. She said some of those people were waiting for the code amendment, and there will be a couple of people waiting so they can build to the maximum. She said then it usually equalizes and not everyone will build to the maximum. Associate Planner Cassidy read the sizes of ADUs for the 2018 applications, when 1,000 square feet was the maximum size allowed – 527, 995, 502, 750, 1,000, 750, 341, and 445 square feet. She said one had only 140, but the rest had more than 300 square feet left over in their AMFA budgets. Commissioner Taylor said at some level, that's almost an argument for leaving the maximum at 1,200 square feet. Commissioner Taylor said it does feel like this is going pretty fast, and it is unknown what will happen if this is opened up. Vice Chair Goulden said what will happen is people will be more encouraged to build ADUs, which is the intent. Commissioner Taylor said the list Associate Planner Cassidy read showed people were building units more around 700 square feet. Vice Chair Goulden said people have not previously had the option to build big enough for aging in place. Chair Targ said there will likely be some near the maximum and most not. He said having some additional housing that can accommodate other members of the community, whether they be family members or others, in larger spaces isn't a bad thing. But he does not think there will be a rush to subdivision. In response to Commissioner Taylor's question, Associate Planner Cassidy said there was no percentage designation for internal, and anything with an external element would have the 70% apply. Commissioner Taylor suggested an internal unit could be any size. Commissioner Kopf-Sill said when she talks about building two 2,000 square foot homes on one lot, it's referred to as a duplex, like that's a bad word, but someone could build a real duplex with a home of 4,000 square feet split into two 2,000 square foot units. Chair Targ said a single structure on a site has a different look and feel than two separate units with space in between.

Commissioner Kopf-Sill suggested maximum square footage for an ADU at 1,800 square feet.

Chair Targ recommended a 60% maximum and 1,700 square foot maximum.

Chair Targ said he was sympathetic to an ADU being accessory, but he prefers the larger size ADU because it can serve a broader demographic. He said the smaller AMFA percentage will ensure there is a substantially sized home and lot in order to get to a 1,700 square foot ADU.

Vice Chair Goulden was supportive of Chair Targ's recommendation. He would not want to go below 1,700 square feet.

Chair Targ said the Council will deal with this, and this is a calculus that needs to be made. He said the record of the Commission's deliberation is very informative on this point, almost as much as the numbers that need to land someplace.

Commissioner Kopf-Sill said she is still in favor of 70% AMFA because if somebody wants to build a 1,500 square foot ADU, but their house is only 2,200 square feet, they're incentivized to add on to their main house just to get the necessary calculation for the ADU.

Commissioner Taylor said if the argument is a need to downsize, you don't need to downsize from 2,200 square feet. He said, however, if you live in a 4,000 square foot house, then moving down to a 2,000 square foot house makes sense.

Commissioner Kopf-Sill cited the resident who had a 2,000 square foot house and wanted to build a 2,000 square foot ADU so her family could move in. She said there should be more flexibility for the many permutations of people wanting families to move in, downsizing, etc.

Chair Targ said it appeared there was not a consensus on this issue amongst the Commission.

Commissioner Taylor asked staff how difficult it would be to calculate how many ADUs could be built to the maximum of 1,700 square feet at 60%. Planning & Building Director Russell said it would be almost impossible to calculate. She said there are a lot of historical records about AMFA because they keep it whenever they calculate it, but they do not have accurate records of the combination of AMFA and existing floor area in enough cases to calculate with any kind of accuracy. Commissioner Taylor said if the argument is that it only affects a few large lots, he could support 1,700 square feet and 60%, but if there are several, then it goes to Commissioner Hasko's point of impacting the natural environment. Associate Planner Cassidy said she did look at the data from the last three years and found there were only two properties (an addition and a stand-alone ADU) where 60% would have been the lower number out of the 26 that they looked at. She said the percentage would come into play more when looking at a new residence and someone structuring two more equally-sized units.

Commissioner Hasko said her opinion had not changed. She said a policy is for the Town Council to weigh up. She said her perception is they started out emphasizing affordable housing and increasing the size of the ADU certainly isn't necessary for affordable housing. She said aging in place is a different goal. She said she does not have a feeling for what this actually does to the town and for her, it's not the right moment.

Chair Targ said there appears to be sensitivity to the issue of the accessory nature in that a recommendation was to have the external unit be no more than 60%, and there seemed to be some level of comfort with that with the majority, and it is closer to what the minority would feel comfortable with. Commissioner Hasko said the goal should be that the ADU is accessory at some level. Commissioner Taylor agreed that 60% moves in that direction. Vice Chair Goulden said 60% moves away from the flexibility direction.

Vice Chair Goulden asked, regarding Section 4.c.ii, Floor Area – Calculations: “Parking provided for ADUs shall not count toward floor area calculations,” if that had ever counted been in the AMFA calculations. Associate Planner Cassidy said garages do count in AMFA. She said if it’s an attached garage, the entire thing counts toward 85%, and if it’s detached, 400 square feet count toward the 85% and the remainder counts toward the total AMFA.

Vice Chair Goulden asked if Section 4.e.i, Materials - “Color reflectivity values shall not exceed 40%, except that trim colors and roofs shall not exceed 50% reflectivity,” was in the current code. Associate Planner Cassidy said they are not code, but are design guidelines, and this would codify them for ADUs. Planning & Building Director Russell said the reason it is included here is so that those things that go through ministerial review still comply with the reflectivity expectations. She said they are applied consistently with discretionary review, and they want to catch them for all ADUs.

Commissioner Taylor asked how garish colors would be captured. He said he’s seen an example of an over-the-counter approval for a red metal roof. Associate Planner Cassidy said color comes down to a First Amendment right, but they do regulate light reflectivity, heat capture, and brightness. She uses a paint chip wheel with all colors identified with light reflectivity that she compares with the provided color boards. Commissioner Taylor said ASCC would go beyond that and not allow a house to be painted red, regardless of the reflectivity. Associate Planner Cassidy said the ASCC does not speak to color. She said most of the projects are very natural in tone. Planning & Building Director Russell said the ASCC has made recommendations, but the hard requirements rest with reflectivity.

Commissioner Taylor said the goal is that the ministerial or discretionary reviews have the same general properties as ASCC. He agreed that if ASCC would gently suggest it, then the discretionary staff review should be suggesting it as well, understanding it might not be enforceable. Chair Targ said a member of the ASCC will be part of the discretionary review process. Planning & Building Director Russell said staff, on a regular basis, advises applicants of the requirements and also make recommendations.

Commissioner Kopf-Sill referenced Section 4.f.ii, “Covered Parking Conversion. When covered parking which is required by this code is demolished in conjunction with or converted to an ADU, the required parking spaces must be provided. However, they may be covered or uncovered, in tandem, or in mechanical lifts.” Associate Planner Cassidy confirmed that if a two-car garage was converted to an ADU, the two parking spaces that would need to be added could be uncovered. She clarified that the State allows an agency to require that parking spaces be provided and also allows that they not be replaced at all.

Chair Targ noted that Section 4.f.iii regarding shared parking will be taken to the Fire Marshal.

The Commissioners were supportive of the addition to Section 4.f – “An ADU with a second driveway must be assigned a separate address, as described in this code section.”

Commissioner Taylor referenced Section 4.i.i. He said the other reference to “sufficient side and rear setbacks for fire safety” sounds discretionary whereas this one, “... and a setback of no more than five feet from the side and rear lot lines ...” is more clear. Planning & Building Director Russell said the State law section is not well written. She said when the Fire District is doing a ministerial review of that kind of permit, which they would plan check, it does leave some discretion to them to make that interpretation using Fire Code and some of their own discretion. Commissioner Taylor confirmed the conversion could be in a setback of no more than 5 feet from the sides, and the Fire District could not require more than 5 feet. Planning & Building Director Russell agreed and said the Fire District would probably ask for somewhere between 3 and 5 feet for safe access.

The Commissioners were supportive of Section 4.j. – Utility Undergrounding.

Staff noted they already had collected the input from the Commission regarding Section 4.l.i. – Second Addresses.

In response to Vice Chair Goulden's comment, Planning & Building Director Russell said staff had discussed that this item might be considered generally because there are currently no strict screening requirements, and people are installing more utilities at the right-of-way. Staff will place it on the list of items for Council to review.

Associate Planner Cassidy said the content of Section 5 is the same as in the previous draft, but has been reorganized to conform to the colorful guide.

Commissioner Hasko confirmed with staff, that if a project on the scenic corridor does not trigger the ASCC level of review, staff could refer it up, but the ASCC cannot pull it up unless someone on the ASCC appeals it. Planning & Building Director Russell said if an ASCC member tells her a project needs to go to ASCC, she will send it to the ASCC.

Chair Targ asked if the code identifies that an ASCC member will be participating in the staff discretionary review process. Planning & Building Director Russell said the staff discretionary review policy on the dais today is the same document. She said Associate Planner Cassidy denoted in bold brown text the items that are in the code. She said staff wants to make sure they've captured the things the Commission thinks need to be codified versus what things can be in a stand-alone policy. She said right now the ASCC member participation in the staff discretionary review is not in the code.

Commissioner Hasko had to leave the meeting at approximately 10:03 p.m.

Chair Targ asked for clarification regarding Section 6.b.i.1, Ministerial Review, "Complies with all code requirements." Cassidy said the idea there is if it is external and 1,200 square feet and does not have any of the triggers listed under ASCC or staff discretionary review, then it could be a ministerial permit. In response to Commissioner Taylor's question, Planning & Building Director Russell said State law requires a path for ministerial reviews for external detached or attached ADUs. Staff agreed with Chair Targ's suggestion that there should be an item that calls out ministerial review at 1,200 square feet.

Chair Targ recommended striking Section 7.b.i, "Either the ADU or the main dwelling unit shall be owner occupied," as previously discussed by the Commission. Planning & Building Director Russell said it was staff's understanding there was a split decision on this item, and she will confirm there was consensus on striking it.

Commissioner Taylor said in general, there are rules the Town does not proactively enforce, but they will enforce them if someone calls it. He said just because the Town tends not to enforce something does not make it unenforceable, and anyone can appeal any discretionary land use approval.

Chair Targ introduced the Draft Staff Discretionary Review Policy.

Chair Targ suggested, under "General," that it be added to code that an ASCC member shall serve in an advisory capacity, but the member will be rotating on a quarterly basis only needs to be in the policy and not the code.

Chair Targ suggested that under "Staff Analysis of Project," it should be in the code that the project be consistent with the Design Guidelines. Staff agreed.

In response to Commissioner Taylor's question, Associate Planner Cassidy said the days listed are calendar days.

Chair Targ requested staff clarify the bullet under "If Application is Complete" – "On or soon after published decision date, meet with ASCC member to review project and draft approval document. If necessary, conduct site visit with staff and ASCC member," so that it is clear that the ASCC member is to review the draft decision before it is made public. Commissioner Taylor suggested "prepared draft approval document." Associate Planner Cassidy said the goal was that the public comment period of 10 days be complete before the ASCC come in so that any public comments received can be part of their review of the project. In response to Chair Targ's question, Planning & Building Director Russell said the staff recommendation will not have been published, but will have been prepared. She said public comment is received on the project in general, but not on staff's conclusion. Anyone who submits a comment will be notified of the decision and the appeal period. Planning & Building Director Russell said basically, this is telling people what their comment period is, noticing the decision date. She said staff will provide stronger language so that it stands on its own. Associate Planner Cassidy suggested "On or soon after the noticed decision date."

Planning & Building Director Russell proposed taking the timing section out of the published policy document because this section was only included here for the purpose of developing the staff discretionary review. Chair Targ agreed. He added that staff might think about identifying a time period by which staff will act within the permit streamlining act.

Chair Targ recommended that it be stated that the Planning Director shall have authority to draft such implementing guidance or as may be necessary to fulfill the purposes of this section.

Commissioner Taylor asked for clarification about offering the applicant a choice of ASCC review or denial and appeal to ASCC if the project is not approvable. Planning & Building Director Russell said there is a rare case where they are at an impasse where an applicant is not willing to make revisions to the project so it can be approved. She said staff wants to be able to offer the applicant the option of taking the project to ASCC for review or denying the project and tell them staff can deny the project which the applicant can appeal to the ASCC. Commissioner Taylor asked why staff would not just deny the project if the next step is going to the ASCC either way. Planning & Building Director Russell said the applicant would need to pay for an appeal, file forms, and write out the rationale for appealing. She said staff is trying to problem solve in advance. She said this situation rarely happens.

Commissioner Kopf-Sill asked why someone would choose to be denied. Chair Targ asked if ASCC would be looking at a project to review staff's decision as an appeal body or looking at it from whole cloth. Commissioner Taylor suggested just going the gentle path and not have the denial option. Associate Planner Cassidy explained the denial closes the permit. She said if an applicant is not willing to budge where there's some discretion, and staff says they're not following the design guidelines and the applicant argues and refuses to revise the drawings, the applicant could simply close it out and withdraw the proposal. Their money would not be refunded until the permit was closed. She explained that staff takes two types of fees – a flat fee and a deposit to cover expected costs. When the permit is done and a decision is made, the deposit remainder is refunded.

Commissioner Taylor suggested the options be to take it to ASCC or withdraw their application. Planning & Building Director Russell said the applicant can formally withdraw the application. She then explained the slightly different procedure for denials. She said the first approval body makes findings for denial, then that's appealed, then it goes up to the next body. The next body is reevaluating the previous work that was done as opposed to making those findings fresh. Commissioner Taylor said there does not need to be the choice of denial, and it can just be a withdrawal. Chair Targ said staff

needs to have the opportunity to close something out if things are languishing, and a regulator needs to be able to close it. The applicant can then have the opportunity to appeal the decision.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(2) Commission Reports

Chair Targ attended an ASCC meeting where they reviewed an ADU that was architecturally and stylistically different than the main house, and he noted how it was accepted without pause. The applicant had purchased the property and wanted to make it more modern so it would not make sense to make the ADU look like the old design because then plan to update the main house.

(3) Staff Reports

Associate Planner Cassidy said there was a discussion of the Alpine Inn Beer Garden, delaying that review for three months. She said she reached out to the gentleman who had complained about noise in the past, and he said it has been better the last year.

(4) News Digest: Planning Issues of the Day

Staff shared an article of interest with the Commissioners – “Seattle Fine-Tunes Backyard Cottages”

APPROVAL OF MINUTES: December 5, 2018.

(5) Planning Commission Meeting of December 5, 2018

Chair Taylor moved to approve the minutes of the December 5, 2018, meeting, with an amendment to page 9. Seconded by Vice Chair Goulden, the motion carried 4-0.

ADJOURNMENT [10:36 p.m.]