

**PORTOLA VALLEY TOWN COUNCIL REGULAR MEETING NO. 963, FEBRUARY 27, 2019**

**CALL TO ORDER AND ROLL CALL**

Mayor Wengert called the Town Council's Regular meeting to order at 7:00 p.m. and led the Pledge of Allegiance. Ms. Hanlon called the roll.

Present: Councilmembers Craig Hughes and John Richards; Vice Mayor Jeff Aalfs; Mayor Ann Wengert

Absent: Councilmember Maryann Derwin

Others: Jeremy Dennis, Town Manager  
Arly Cassidy, Associate Planner  
Cara Silver, Town Attorney  
Laura Russell, Planning & Building Director  
Sharon Hanlon, Town Clerk

**ORAL COMMUNICATIONS**

None

**CONSENT AGENDA**

- (1) Approval of Minutes – Town Council Regular Meeting of February 13, 2019. *[Removed from Consent Agenda.]*
- (2) Approval of Warrant List – February 27, 2019, in the amount of \$197,955.03
- (3) Recommendation by Town Manager – SB 946 Vendor Compliance - Second Reading of Ordinances Amending Chapters 5.08., 5.16., and 5.24 of Title 5 [Business Taxes, Licenses and Regulations] and Amending Chapters 12.10, and 12.12 of Title 12 [Streets, Trails and Public Places] of the Portola Valley Municipal Code
  - (a) Second Reading, Waive Further Reading and Adopt an Ordinance Amending Chapters 5.08 [Definitions], 5.16 [Licenses], 5.24 [Exempt Businesses and Organizations] of Title 5 [Business Taxes, Licenses and Regulations] of the Portola Valley Municipal Code (Ordinance No. 2019-429)
  - (b) Second Reading, Waive Further Reading and Adopt an Ordinance Amending Chapters 12.10 [Commercial Use of Town Outdoor Recreational Facilities] and 12.12 [Use of Public Rights-of-Way] of Title 12 [Streets, Trails and Public Places] of the Portola Valley Municipal Code (Ordinance No. 2019-430)
- (4) Recommendation by Assistant to the Town Manager – Review and Approval of Amendment to Emergency Preparedness Committee Charter.

Councilmember Richards moved to approve Items 2, 3, and 4. Seconded by Vice Mayor Aalfs the motion carried 4-0, by roll call vote.

- (1) Approval of Minutes – Town Council Regular Meeting of February 13, 2019. Councilmember Richards moved to approve Item 1 as amended. Seconded by Vice Mayor Aalfs, the motion carried 3-0-1, with Mayor Wengert abstaining.

## **REGULAR AGENDA**

### **PUBLIC HEARING**

(5) Public Hearing – First Reading of Ordinance - Accessory Dwelling Units

- (a) First Reading, Waive Further Reading and Introduce an Ordinance of the Town Council of the Town of Portola Valley Removing Subsection (B) of Section 18.12.040 [Accessory Uses Permitted] of Chapter 18.12 [R-E (Residential Estates) District Regulations] of Title 18 [Zoning], Amending Section 8.36.040 [Accessory Uses] of Chapter 8.36 [Uses Permitted in All Districts] of Title 18 [Zoning] and Amending Section 18.48.030 [One-Time Increase] of Chapter 18.48 [Parcel Area, Open Space and Bulk-Basic Requirements] of Title 18 [Zoning] of the Portola Valley Municipal Code (Ord.\_\_\_\_)

Mayor Wengert thanked the Town staff and the Planning Commission for their massive efforts on this ordinance.

Town Manager Dennis thanked the Planning Commission, who sat through seven meetings and many hours of very dense material. He also thanked Laura Russell and Arly Cassidy, who produced, in five months, 125 pages of unique material and staffed those seven meetings.

Planning & Building Director Russell introduced herself. She acknowledged that much of the discussion tonight will be technical and reminded the public and Council that the Planning staff is available for any questions or discussion. She also provided handouts for tonight's meeting that explain a number of the items that will be discussed, including a glossary.

Associate Planner Cassidy led the presentation to the Council of the First Reading of the Ordinance on Accessory Dwelling Units. She explained that the presentation would be followed by questions from the Town Council, a public hearing to receive public comment, then then Council discussion. At that time, Council may choose to introduce the ordinance.

Associate Planner Cassidy provided a guide to tonight's presentation including background, discussion items, the ordinance itself, public feedback, general plan consistency, environmental review, recommended actions, and next steps, as detailed in the staff report.

Staff recommended that the Town Council review the draft ordinance, receive public comment, and provide direction on any necessary changes to staff. The Council may choose to: 1. Waive reading and introduce the attached ordinance amending Chapter 18.12.040 (Second Units), Chapter 18.36.040 (Accessory Uses Permitted in All Districts) and Chapter 18.48.030 (One-time Increase to Parcel Area, Open Space and Bulk Requirements) of the Portola Valley Municipal Code; and 2. Find the project exempt under the California Environmental Quality Act.

Councilmember Richards disclosed that he is an architect and has been involved in a number of ADU projects over the years. He said he spoke with Town Attorney Silver about whether or not he could potentially have a conflict. He said he has one current ADU project being reviewed under the old ordinance but no new projects that would be affected by this new ordinance. He said according to his discussion with the Town Attorney, there is no conflict of interest.

Councilmember Hughes said there is a note in the report that may refer to him as the Councilmember who owns a property that meets the three criteria in combination and therefore having a conflict of interest. He pointed out that his property actually does not meet those criteria and there is no conflict.

Vice Mayor Aalfs disclosed that his job occasionally involves projects in town and could be impacted by the ADU process. He discussed it with the Town Attorney and it was determined there was no conflict of interest.

Mayor Wengert invited questions from the Council.

Councilmember Richards said the State requires ministerial review for all ADUs up to 1,200 square feet. He asked if ADUs up to 1,200 square feet could be impacted by other factors that would require more than a ministerial review. Associate Planner Cassidy said the State law allows local jurisdictions to apply specific regulations so long as there are zones where an ADU of 1,200 square feet can be a ministerial approval. She said the proposal is to apply restrictions based on life/safety issues.

Mayor Wengert asked if guest houses and junior accessory dwelling units were included in the Adjusted Maximum Floor Area (AMFA). Associate Planner Cassidy said the AMFA is the maximum amount of floor area that any property can build, a number determined based on a complex formula. She said no matter what is being built, all of the developed floor area must fit within the AMFA. Additionally, only one second unit or ADU can be developed on any one property unless it is 3.5 acres or more, where two is an option. She said the majority of parcels in town would be restricted to one ADU – an internal ADU, which is a conversion of existing space, or an external ADU. There cannot be an internal ADU, an external ADU, and a converted cabana. She said an ADU, as defined by the Town and the State, is a separate unit with its own bathroom and its own kitchen facilities. She said in order to build a guest house and not have it classified as an ADU, it must lack a kitchen or the suggestion of a kitchen. In response to Mayor Wengert's question, all finished space of 7 feet or more above ground, including a guest house, are included in the AMFA calculation. She said a house can have a guest house with no kitchen and add an ADU and that's the maximum. They cannot then add a junior ADU or an internal and external ADU. She said once there is a kitchen, it's a separate unit.

Mayor Wengert asked if the internal ADU was treated differently relative to the noticing and permitting provisions when it comes to staff. Associate Planner Cassidy said that is dependent upon floor area size. She said if the internal ADU is 1,200 square feet with no other triggers for discretionary review and stays within a ministerial permit, then it is not noticed, per State law. She said a ministerial review cannot include notice, cannot accept and respond to comment, and cannot have any conditions of approval. She said internal ADUs that are larger than 1,200 would not be ministerial and would be noticed.

Mayor Wengert asked if there was ever consideration about the number of structures allowed on a site. Associate Planner Cassidy said that has not been considered.

Councilmember Richards confirmed that basements count as square footage if it is a garage. Associate Planner Cassidy said all the square footage in an attached garage and 400 square feet of a detached garage counts toward the 85% rule of massing for the main house. She said she has never seen a garage completely underground. She said when a basement is partially exposed, there is a calculation for the floor area that applies. She said anytime there is more than 18 inches of exposure or more of the sidewall of a basement, it starts counting as floor area. She said there are often garages on a slope with most exposed and most counting as floor area. She said if there is a full basement under an ADU that is not part of the ADU then it would not count toward floor area or ADU.

Mayor Wengert acknowledged that three Planning Commissioners were present - Anne Kopf-Sill, Craig Taylor, and Judith Hasko.

Mayor Wengert opened the public hearing and invited public comment.

Steve Toben, Woodside Highlands. Mr. Toben expressed enormous appreciation for the quality of the service the community is experiencing, the quality of public engagement, and the exceptional capabilities of staff. He said he feels enormous pride in being a citizen of Portola Valley. Mr. Toben said he's lived in

Woodside Highlands for 28 years. He said he has a 300-square-foot ADU they have rented to Stanford graduate students and a park ranger at Foothills Park. He said currently they rent it to a gentleman who works in San Jose and comes from Tracy on Monday morning, stays there four nights, then goes back home on Friday to spare himself the brutal commute. He said he is supportive of the direction the Council is taking to liberalize the ADU policies and generate the production of more housing units in town. He said he is grateful to the Council for recognizing the need and responsibility to take up this issue in the context of the regional housing crisis. He said he also respects the fact that many residents are concerned in particular about the maximum ADU size under consideration. He said the AMFA allowed for each property is not affected in any way by the proposed ordinance, with zero threat to the physical character of the town because whatever ordinance is adopted will not change the currently allowed AMFA for any parcel. He said someone could choose to build a standard-sized single home or build a smaller home and apply the leftover square footage to building an external ADU. He said while there is no effect on the physical density, there is the potential for increased human density as a result of the proposed ordinance. He said that by generating more housing units, it brings more people and more cars. In considering whether or not this was an unwelcome future, he researched censuses back to 1970. He said the population of town has decreased between 1970 and 2010 by 13 percent. He said the number of people per household decreased by 23 percent over that same 40-year period. He said no one was complaining back in 1970 that there were too many people. He said there is headroom to get back to the historical population and household occupancy rates and he is not concerned about the additional human burden on the town's infrastructure that can result from adding a reasonable number of housing units, particularly given the acute housing shortage in the region. He said he does, nevertheless, respect the concerns of those who question the maximum size allowed for ADUs and who argue that 1,700 square feet is too big. He said the Planning Commission discussed this size in conjunction with the objective of allowing seniors to build larger ADUs, vacating their primary residences to their children and grandchildren. Mr. Toben said it is not likely that everyone can afford to build a 1,700-square-foot ADU considering the cost to build right now is approximately \$600 per square foot. He said allowing ADUs in all zoning districts will yield a number of much smaller units, perhaps even a few 300-square-foot cottages like his. He said in search of a rationale benchmark for establishing a maximum ADU size, he looked at the square footage of units in The Sequoias. Those units range from 560 square feet for a one-bedroom one-bath apartment up to a maximum of 1,120 square feet with two bedrooms, and two baths or one and a half baths, all of which are ADA compliant. He said the largest unit at The Sequoias aligns with the State standard of 1,200 square feet, which can be subject to ministerial approval. He suggested the 1,200 square feet be the maximum allowable ADU size. He said he is personally opposed to the removal of the owner-occupancy requirement and has concerns about absentee ownership; however, he strongly favors the allowance of ADUs in all zoning districts in town.

Tom Hafkenschiel. Mr. Hafkenschiel said he agrees with a lot of Mr. Toben's comments. He said for a 1,200-square-foot unit, the break-even number for a landlord for just the mortgage and building cost would be at approximately \$3,300 a month and would need to be rented out for a minimum of \$4,000 a month, which is not low-cost housing or affordable for a teacher, police officer, or firefighter, but could possibly provide housing for family members or others. He said he doesn't have a problem with that, but said that non-owner-occupied homes with ADUs would be a disaster. He said he noticed there was a prohibition for rentals under 30 days. He said there will be no enforcement of this rule and he does not want to see this becoming an Airbnb situation. He said Airbnbs actually reduce a community's supply of affordable housing units. He suggested the owner of the ADUs disclose how many renters they have each year. He asked if there was some kind of poll done indicating that there was a great demand for having elderly folks move into an ADU or if that was just an assumption. Town Manager Dennis said the Council, as part of the Housing Strategic Plan, discussed three elements of concerns, including lower cost housing for employees and two elements related to intergenerational housing, including seniors wishing to age in place and those related to children who grew up here and want to move back. He said the Housing Strategic Plan includes a variety of elements and different types of housing currently being considered by the Council, including the affiliated housing program which allows some institutions in town to build housing for their employees and Town-owned property being considered for housing, etc. He said the Housing Element has a mix of potential answers to those questions the Council has been considering.

He said there has not been a poll but there has been a series of outreach events including two convenings last year where they received input from approximately 200 residents. He said at those convenings the overwhelmingly response was to consider housing options to look at those three questions. Mr. Hafkenschiel said he has a 400-square-foot ADU he is renting to a single woman, a cook, and it is adequate for her needs. He questions the need for anything above 1,200 square feet. He said his next-door neighbor's home has been vacant for five years and is not being kept up and is an eyesore, which is what happens without owner-occupancy.

Virginia Bacon. Ms. Bacon said the ADU ordinance as proposed is appropriate. She said she objects to the requirement that a property be at least 2 acres to be allowed a second driveway. She said the amount of impervious surface is important but not the property size. She said in addition to requiring that the driveway not cross a trail, it should also not cross a drain field with a septic tank.

Forest Linebarger, Cervantes. Mr. Linebarger said he attended three workshops. He commended staff for the great job and thoughtfulness. He also thanked the Planning Commission. He said he was supportive of the ordinance. He said his parents moved away years ago and he stayed. He said his parents, now in their late-70s, cannot afford to move back. He said he would like to provide them with a house, something bigger than 1,200 square feet and with a covered garage. He said he has goats and milks them and makes cheese that needs to be aged and would like to store cheese in the basement of the ADU. He said he plans to stay here for the rest of his life but if he wants to spend a year in Europe, he wouldn't want that to be illegal. He was in favor of allowing 1,500 to 1,700 square feet to accommodate a two-bedroom unit with a garage.

Alice Schenk. Ms. Schenk expressed appreciation for all of the hard work that went into this process. She said she's lived in Portola Valley for more than 25 years. She said the proposal has aspects that have more of an impact on the community than almost anything she's come across during her residency, yet in her everyday walks with her dog up and down the streets, she's come across a lot of people who know nothing about it. She said residents can't understand how in a community where they get mailed notices for garbage pickup days and other things there was no mailing regarding this issue. She said having notices posted on bulletin boards and emails sent to interested parties is totally inadequate. She said there are many people who don't know about this who will be impacted by it. She said the final proposal package should be sent to every resident by mail and they should have an opportunity for yea or nay. She said the people she's talked to are concerned about the driveway and the utility hookups and feel this is a first step toward subdivision of properties and changing the community. She wondered what the founders, like Bill Lane, would feel about this. She said although there is a provision that this will never happen, that these properties will never be broken up and sold separately, too many times what is decided today is forgotten in 10 years and this seems like an initial step to break up lots. She said the people who live here and have invested a lot in their properties need to know. She asked how much authority the Council has to override the HOAs.

Mayor Wengert asked the Town Attorney to respond to Ms. Schenk. Town Attorney Silver said the State law allows homeowners' associations to impose additional restrictions for ADUs that may be more restrictive than the regulations authorized by the town. She said some HOAs in town have adopted covenants (CC&Rs) that restrict ADUs and other types of accessory buildings on properties. She said at this point those covenants have control over the town's regulations. She said State law may change this and staff is monitoring it, but at this point the CC&Rs do control.

Peg Goodrich. Ms. Goodrich said she was in total agreement with Ms. Schenk. She said there are people that need a little shaking up now and then to get their attention. She said she lived her many years ago, moved away, and then moved back. She said she remembered the rural character that she grew up with. She is concerned about the effect of the rural character by adding second driveways. She said she calls it "ordinance creep." She said the first owner of 15 Golden Oak sold the property and there was a small space on one side and the second owner added a unit using some creative setback calculations. She said there is a new building at 357 Westridge in addition to the regular house, which looks like it is right is

on the lot line. She said she is also concerned with the unit size because she thinks the driving force was the concern for affordability and the size has been dictated by the State. She said she knows many people who already have second units. She said she is supportive of smaller square footage in order to remain affordable and to be a true accessory unit and not a competing second unit.

Greg Franklin. Mr. Franklin said he is enormously impressed with this process and the work that's gone into it. He thanked the Town Council for facilitating. He said he and his wife have tried to follow the process, have attended some of the sessions, and contributed verbally and in writing. He said the situation has been thoughtfully analyzed and accommodating to most of the input provided, particularly in the elimination of the inconsistency over the treatment of basements in these units. He said when you pass a \$50 million bond, you have an opportunity to build small ADUs associated with the construction at those two new schools to provide accommodations for teachers. He said he is not there speaking as an advocate of low-cost housing, but is there to talk about aging in place because he is a representative of that community. He said he's lived in Portola Valley for more than 30 years and had the good fortune to live in a very large house, raised a family here, and they are now empty nesters who are seriously considering downsizing because they no longer need a 3,500-square-foot home; however, they do want to stay in the community. He said they are very interested in this ADU process. He said from the aging in place standpoint, they would like to see the maximum ADU size on the high end of the range. He said the example of 1,700 square feet is adequate for a family, such as his and many others, that's been here 30 years and have lived in 3,000- to 4,000-square-foot homes but now want to downsize but stay in the community. He said he would want to build a single-level ADU that is ADA compliant. He said they would want to use a basement for some kind of utilities such as a downstairs laundry or a playroom for visiting grandchildren, or a guest room. He said a basement is also a refuge from a wildfire rather than trying to escape down the narrow roads to get to Alpine or Portola. He said Governor Brown, after inspecting the Camp Fire, suggested radical changes to emergency processes and advocated using basements rather than risking being caught in vehicles trying to get out of traffic jams. He recommended quantifying a basement example and supplementing it to the explanation on page 9.

Kori Anne Bagrowski. Ms. Bagrowski expressed appreciation for all the work that's gone into this ordinance. She said she has watched the progression and said it is nice to see the adjustments that have been made. She said she is also concerned that 1,700 square feet is too large. She said if the goal is lower income housing, that is not applicable. She said she understands the concerns that their loved ones would need larger space, but as noted, Sequoia is smaller than the State's recommended 1,200 square feet. She asked if the State could possibly determine that 1,700 square feet is not in compliance with trying to provide affordable housing. She said it might be considered to allow ADUs to have covered garages. She said the allotted parking is inadequate. She said a 1,200-square-foot house would typically house at least two people. She said there should still be a guest space for a gardener or housekeeping and the people who live there should be able to park at their own residence. She was also concerned about separate addresses leading to eventual subdivision of properties. She said it effectively does subdivide the property. She said she moved here because she loves the rural character of the town, the people, and the community. She said she does not see her neighbors, is not squished in, and houses are not right up to the property lines eliminating the beautiful open space. She said she strongly agrees with the encouragement to put out a mailer to the community. She said there are a lot of older people, disconnected people, and people too busy to check on the town website. She suggested the previous speaker's reconsider his comment about a basement being a safe haven in a fire. She said she was concerned about multiple units, allowing repetitive 30-day rentals, and having no owner on-site.

Ed Reines. Mr. Reines said the level of discourse was impressive and a good start to a good product. He said he's lived in town for 20 years. He said the project should match the use case and the mission. He said he doesn't have a problem with some of the solutions Town Manager Dennis mentioned such as the Priory providing housing for their employees. He said the compelling justification for the ordinance seems to be housing for the extended family or domestic employees – people in the homeowner's network. He said the use case should not match the Airbnb context, which is a growing trend. He said the provisions such as separate addresses, separate utilities, and separate driveways are dividing the property in a way

you would do it if you wanted to profit in the non-owner-occupied. He said if your parents were coming home to roost, you would still be owner occupied. He said he does not want people coming in and trying to monetize properties, essentially splitting them and then Airbnb-ing both of them. He said when you start appreciating the far-reaching character of that, the commonsense point about notice becomes even clearer. He said if there is a food fight about Airbnb in town and people don't know how we got here, it will not be pretty.

Jon Silver, 355 Portola Road. Mr. Silver said he served on the Council for just over 16 years and commends the process. He said he initially wondered if 1,700 square feet made sense if the goal was affordable housing. He said if the town really does not want commercialized absentee rentals, there may not be a compelling reason to have separate addresses. He said his first memory was moving to Portola Valley when he was under two years old and his reason for being involved in town and county government was to preserve the environment. He does not fear the general thrust of the proposal in any way threatens preserving rural Portola Valley but he does feel it's important to get the details right. He said he bought his property on Portola Road partly because he had a preexisting legal nonconformity accessory dwelling unit on his property in Brookside Park. He said it is a relatively small lot with a very small ADU of less than 250 square feet, but that small rental income helped him afford being able to live here when he was in his 20s. He said for the last 9 or 10 years he has rented it to a single mom whose child was in nursery school when she moved in and is now in high school, having gone through the Portola Valley schools. He said he has not changed the rent in all those years and it is well below market rent, but not insignificant. He said things like that are positive for a community. He said he did not think it was necessary to have a separate utility or address. He said he hears compelling reasons for residents who feel the need for a larger size but he questions if that's the best thing for the town as a whole. He said he has zero fear that this ordinance will lead to subdividing properties in town, especially if designed correctly.

Philip Vincent, Portola Road. Mr. Vincent worked on the Sequoias back in 1961 while a graduate student at Stanford. He said he is a long-term homeowner in Portola Valley. He said at the early meetings he thought this ordinance was a response to reducing housing costs but now he sees a lot of problems with the proposed ordinance. He said his wife would love to have an ADU. He said they are on 4/10ths of an acre and would completely rebuild their two-car detached garage with a unit upstairs. He said he could not imagine having a second driveway on his property. He said ADUs certainly increase density and this will create divisiveness in the community, such as in the 2000-2003 Nathhorst fight regarding increases in density by putting in condominiums. He said many years ago he suggested to Bill Lane that more units be built up in Westridge instead and he said, "Oh, no, we have the CC&Rs." He said a lot of the impact of the proposal will be on the very dense areas of town, not in areas like Westridge that are protected. He said building on properties of less than 1 acre changes the character of a very limited area. He said where he lives is fairly dense and is quite different from other parts of town. He said in the initial discussions he thought the affordable housing issue was being addressed by allowing people on larger lots to build ADUs. He said it makes no financial sense for him to go to the expense of rebuilding his garage with a unit above it and rent it out at an affordable cost. He said one of his concerns about the Nathhorst fight was it was forcing the Town to do certain things but this ordinance is permissive and only for a small part of town, which is very divisive and negative. He advised Mr. Franklin that a basement was not a good refuge from a fire.

Helen Wolter, 4660 Alpine Road. Ms. Wolter expressed appreciation for all the work done in considering housing in town during this dire housing situation in the Bay Area. She said many of her neighbors do not want affordable housing. She said she would like to build an ADU and appreciates what town government has done to make it more viable. She appreciates that priority is given more to housing than garages. She said the current standards would allow her to build either a 2,000-square-foot garage or a 1,000-square-foot ADU. She appreciates that all building zones have been considered. She said renters generally don't have as many cars. She was supportive of the second address and would want to get her mail and utility bills independently from the ADU. She also appreciated the streamlined permitting process.

Michael Katz, 107 Santa Maria. Mr. Katz said he has attended a lot of the meetings. He said there is still some confusion about what problem is being solved by streamlining the ADU process. He said there was a lot of talk about low income housing, but when the breakeven point is \$4,000 a month, it's unclear that that problem is being solved. He said on the tour of the four ADUs only one was designed for a student and could be rented out affordably. He said the other ADUs were beautiful, with 16-foot-high living rooms, clever hallways that didn't count for square footage that made huge storage areas available, and bathrooms that cost probably \$150,000 to \$250,000 to build, not qualifying for anything that would be considered affordable. He said there are already rules for space being added for an office or for elderly parents. He said it is not clear why some things can be built without a review and where those lines are drawn. He said his own home is less than 1,700 square feet. He said he has not heard any discussion about traffic. He said he has asked repeatedly if any studies have been conducted about the current use of ADUs in town. He said he is not necessarily against the ordinance, but it does not seem it has been thought out to a conclusion as to what problems are being solved.

With no additional public comment, Mayor Wengert closed the public hearing and brought the item back to the Council for discussion.

- Policy Decision A – Maximum ADU Size

Mayor Wengert reviewed the list of directions provided by the Town Council after the study session of July 11, 2018. She acknowledged that the Planning Commission struggled with some of the inconsistencies in that list and did not attach the maximum square footage figures, deferring to the Council to specify which of the goals was primary. She suggested the Council look at that again. She said there is need in the community where affordable smaller units will suffice and also the desire for larger units so residents can age in place or provide space for their children with families. She said that conflict is still inherent in what the Council is trying to resolve.

Vice Mayor Aalfs said the goal is to create inventory at whatever level. He said aging in place is a valid reason to expand opportunities to build ADUs as is affordable housing and he does not see a huge conflict there. He said, unfortunately, \$4,000 a month is starting to be considered affordable housing in the Bay Area. He said if there were a lot of \$4,000-a-month rentals in Portola Valley, they would be filled up. He said at any level, additional rentals will be relieving the market. He said there are two use cases, possibly more, and both should be encouraged. He said he would lean toward the higher end of the size range.

Councilmember Hughes said perhaps the number to be considered is the maximum percentage relative to the main house, possibly reducing that number. He said on the list of ADUs built, the largest one was 39% of the main house, with the next closest being 30% and 27%. He said nobody has built anywhere near 70%. He said if an ADU is truly an accessory unit, maybe the 70% number is what needs to be lowered, potentially leaving the square footage limit higher. He said an applicant would be limited by the size of their main house or their AMFA far sooner than getting to 70% unless it was an enormous property, in which case 1,700 square feet may not matter so much. He agreed with Vice Mayor Aalfs that there are multiple goals and he does not see them as conflicting but more as multiple goals that are trying to be satisfied simultaneously. He said someone aging in place may still want an office or a spare bedroom, but not necessarily 4,000 square feet.

Councilmember Richards said he's been involved with approximately 15 to 20 ADUs in Portola Valley over the years and the reality of the building industry is that they cannot be done cheaply except in very unusual circumstances, like his own, which he built himself. He said he rents his ADU to his daughter for a very low price. He said those opportunities should be out there in whatever form and if they end up being expensive, that's just the reality of the day. He said, regarding ADU size, he feels more constrained by the Council's charge to protect the town's rural character. He said he is fairly comfortable with 1,200 square feet but starts to get nervous with larger. He said a comment was made that the AMFA will protect the town from major changes, but he does not necessarily agree. He said once the opportunity is there to



build a separate unit larger than has been previously allowed, they will be built. He said in 1950 the average home size in the United States was 983 square feet and a family size at that point was 3.3 people per family. Family size now is down to 2.5 and the average house size is 2,600 square feet. He said it is not impossible to live in a smaller space. He said he has designed three bedrooms homes with two baths and accessibility in very close to 1,200 square feet.

Mayor Wengert said she initially leaned very heavily toward the lower end of the size range, principally because she is loath to make such a dramatic change in a community like this so quickly. She said there may be unintended consequences not yet considered. She said she agreed with the comment about reducing the percentage. She said the inventory of ADUs built over the last three years are larger. She said that's the issue when inventory is being replaced over time because she thinks the ADUs will get bigger if bigger is allowed. She said anyone coming into the community today will likely want to maximize their AMFA.

Vice Mayor Aalfs said he was surprised by how many of the new builds did leave a lot of AMFA. Mayor Wengert said she was pleased by that and said it argues toward not going for the biggest allocation right out of the box. She said in 2018 a 341-square-foot ADU was built and, in the list of eight, there was only one at 1,000 square feet. She said the history of the town informs her that if they thrust up to a higher number now, that might be overreaching. She said 1,200 to 1,400 square feet can accommodate aging in place and ADA-complaint space. She said she leans toward the lower to middle part of the size range.

Vice Mayor Aalfs asked if a covered carport on an ADU counts as floor area or just impervious surface. Associate Planner Cassidy said any initial required parking for the house has to count for floor area right away. Additional uncovered guest parking would never count. ADU parking is rarely put in a new covered parking space. She said she doesn't believe it would be counted as floor area for the same reason that unusable uninhabitable space is not counted. She said if you build a new house with two parking spaces as required, they must be covered and can be a carport. That initial carport will count toward floor area; however, any other carport would not count.

Mayor Wengert said her expectation is that the Council will not arrive at a number tonight, but the discussion of the other points may influence where they ultimately land. Vice Mayor Aalfs said the larger floor area does not preclude someone from building a smaller affordable unit, whereas a smaller floor area will preclude someone from building a larger aging in place unit. He said allowing the larger size provides more flexibility, if that is the goal. Mayor Wengert said if the goal is to create inventory, a question would be if people would not build unless they got the size they wanted. Vice Mayor Aalfs said potential applicants said they would not build or they would wait or move out of town. Mayor Wengert said even if it landed conservatively at 1,200 square feet, compared to 750 square feet just a little over a year ago, it is a significant increase. Councilmember Richards said he did not think people would decide not to do anything at that point.

Councilmember Hughes said even at 1,200 square feet, the percentage might be reduced from 70% to a much smaller number so that the units are clearly accessory. He said 70% is a second house in a lot of cases. He said if the limit was lowered to 25%, for example, almost none of the seconds units that have been built would have been excluded. He said at 1,200 square feet, the main house would need to be 4,800 square feet, which would indicate a pretty large property and large AMFA to start with. He said if the limit were 1,700 square feet, at 25% the main house would need to be 6,000 square feet, which would apply to very few properties and would probably be appropriate for such a large property.

Vice Mayor Aalfs said AMFA on smaller properties would be the limiting factor much sooner than the 1,200 square feet or 70%. He said he was thinking around 40%. Mayor Wengert said she was thinking 40 to 50%.

Councilmember Hughes agreed a number didn't have to be decided on tonight but the Councilmembers should think about various scenarios.

Town Manager Dennis asked Council to suggest a particular range to analyze. Mayor Wengert directed staff to look at the implications of percentages at 25% to 30% and at square footages of 1,200 to 1,700, indicating how big the main house would be, the AMFA limits, etc. Town Manager Dennis said they would add scenarios with 25, 30, and 40 percent to the chart.

Councilmember Richards said he saw data recently indicating more of an increase in overall size of homes. Associate Planner Cassidy said the table in the staff report includes only houses with ADUs. Councilmember Richards said he has seen a considerable upward trend toward using maximum floor area ratio. Councilmember Hughes said he spent a lot of time with previous Planning Director Pedro going through the statistics back 10 years and 20 years. He said while the size of the houses had trended up over time, the percentage of AMFA being used was pretty much flat or slightly downward. He said over time people with the bigger properties have turned them over giving the appearance of an upward trend.

Mayor Wengert agreed with Councilmember Richards that some of the houses built without ADUs in the last three years should be added to the analysis. Associate Planner Cassidy said the table includes existing homes that were adding ADU as well as completely new builds. Mayor Wengert asked that it be indicated which are renovations and which are new builds.

Mayor Wengert said the scale of the amount of increase this will represent should entice a number of people who have been on the fence about whether or not they wanted to build an ADU because it should be able to accommodate both ends of the spectrum relative to the use. She pointed out that, unfortunately, nothing can be done about the cost which will be prohibitive for many.

Councilmember Hughes said 1,700 square feet will not fit into the affordable bucket, but the Town will still be required to plan for that under RNHA. He said the Town will need to pause the production over time of a certain number of affordable units. He said a 1,700-square-foot might not satisfy that need, but it will satisfy the others, and people will still be encouraged to build small second units.

Town Manager Dennis said staff has done some initial work related to prefab units, talking to three or four different west coast manufacturers. He said they wanted to see if there were a mix of prefab units that could get a preapproval where applicants could go through a very streamlined process. He said if those types of units are applicable, there certainly could be a change in affordability.

Councilmember Richards said he is currently serving on a HEART committee to look into the possibility of creating a number of custom-built green home designs that can be preapproved.

- Policy Decision B – Fire Safety & ADUs on all Parcel Sizes.

Councilmember Hughes asked if there was any discussion as to why this should apply to only 1-acre properties that are on a cul-de-sac with a narrow road as opposed to any property of any size that had a fire safety issue. He said he fully agrees with the premise to make sure these ADUs are in safe environments, but he does not know why someone with 1.1 acre on a narrow road should not be subject to the fire safety conditions. Planning & Building Director Russell said they did discuss that issue. She said it was advanced to Council in this fashion because currently properties greater than 1 acre have the right to build an ADU. She said the Planning Commission did not feel they were charged with taking that right away, but they recognized that the Council may want to consider it and think about if there were any additional actions that should be taken.

Vice Mayor Aalfs asked how many properties existed that were more than 1 acre with a single inlet less than 18 feet wide. Planning & Building Director Russell there has been some counting and the map on the dais also shows them. She said there are a sprinkle of properties greater than 1 acre accessed off of those narrower roads. She said there was recognition that those properties would continue to have the development rights they currently have under the current ordinance. She said staff knew they might increase in size. At the direction and consultation with the Planning Commission, staff talked to the Fire

Marshal about if there was concern about potentially allowing bigger units where they were already allowed. She said there was not a particular concern from the Fire District around that issue. She said there was more of a concern around allowing more of them in general.

Mayor Wengert said the proposed ordinance requires all three conditions to be met, with the first being lots of less than 1 acre and the next two applying as a pair – road width less than 18 feet and single point of ingress/egress. She asked if it has been discussed if just one of those requirements would be a trigger. Planning & Building Director Russell said the consultation with the Fire Marshal indicated it was the pairing of those two things that would be the trigger. She said she had a separate conversation with the Fire Chief and that team felt the proposal was the right criteria and recommended pairing the second and third requirement. Vice Mayor Aalfs said either two exits or one wide exit would be sufficient to alleviate the Fire Department's concerns.

Councilmember Hughes said he would feel uncomfortable telling someone who lived further uphill on the narrow road up to the highlands that because their property is 3-1/2 acres they can build two units on it, but the neighbor with a slightly smaller lot cannot because it's unsafe for them. He acknowledged that this would only apply to a small number of properties. He said because the ability to produce ADUs is being expanded so much, if it is reduced by a small amount in one area, the net benefit to the town is still significant.

Mayor Wengert said it is an interesting convergence of two issues – fire safety and ADUs. Mayor Wengert said she would like to know how many might fall into that category. She said if it is determined there are only two or three parcels, the Council can then decide how they want to deal with it. In response to Mayor Wengert's question, the Councilmembers agreed they were comfortable with the restriction on lots of less than one acre.

Vice Mayor Aalfs said he discussed with Planning & Building Director Russell about increasing density in those neighborhoods. He said in his neighborhood, the AMFA limitation means there are very few homes that would have enough AMFA unless it was a lot redevelopment.

Mayor Wengert said staff did a great job looking at the issues and what is reasonable in terms of limiting and excluding those that would clearly create a potential fire safety problem.

- Policy Decision D – Second Addresses.

Councilmember Hughes said he was fully in favor of second addresses. He said he is not concerned that it is a lightweight version of subdividing a property. He said many utilities will not allow two bills come to the same address. He said if he had an employee living on his property, he would not want to have to sort the mail or figure out who ordered the pay-per-view on cable or have them be limited to whatever internet connection the main house has when they want another solution.

Vice Mayor Aalfs said he sees it as facilitating rentals in a lot of cases because it is easier to rent with two addresses.

Councilmember Richards said it also facilitates the Fire Department being able to recognize which address is on fire or needs assistance.

Mayor Wengert said the Town is very clearly oriented toward preserving open space character and allowing a second address is a long way from subdivision.

- Policy Decision C – ADUs in all Zones.

Mayor Wengert said it creates the opportunity for some of the institutional users to potentially have an ADU on-site. Given the same criteria would apply to all of those users as applies to the current residential zoned districts, she did not see a disadvantage or issue allowing a single ADU. The Council agreed.

- Policy Decision E - Second Driveway

Mayor Wengert said her understanding, from discussions with the Planning Department, is that there would be very few situations in which this would likely occur. She asked staff if anyone had requested a second driveway in the last few years. Associate Planner Cassidy said it comes up on occasion but more often it is someone resisting taking out their existing second driveway. She said there are a number of existing second or loop driveways.

Councilmember Hughes said the key element with second driveways is the requirement for the ASCC to find that the ADU could not be served by a single driveway.

Councilmember Richards said there are also special or unusual cases where a second driveway would make a much better driveway, not necessarily because there is no way to get to the ADU but because of a reduction in impervious surface, preserving woodlands, etc. He said it would be nice to find a way to require findings that would suss that out without having to completely eliminate the possibility of doing it in most cases.

Planning & Building Director Russell said the Planning Commission did discuss what findings would apply and whether they would be sufficient. They added a finding specific to this – “The ASCC finds that it is not feasible for an ADU to be served by the same driveway that serves the main building, taking into consideration the cost, topography and natural landscape, among other things,” plus all of the findings listed in the regular discretionary review which would also apply.

Vice Mayor Aalfs liked the idea of leaving it as a possibility with a very high bar for granting it. He said if that were the case, he might be comfortable with considering it on less than 2 acres that might have a similar issue.

Councilmember Richards said the risk of putting in too many driveways is not worth the effort to try to create some kind of findings that some will at some point find a way around to add a second driveway the Town really does not want.

Virginia Bacon said in the situation of a corner lot on a cul-de-sac, with the ADU on the cul-de-sac side, a second driveway would greatly reduce the amount of impervious surface.

Vice Mayor Aalfs said he is working a project on a small lot with a sharp corner and the ADU has a small driveway off the street which saved a lot of pavement. He said he could imagine where it would make sense on a rare occasion.

Associate Planner Cassidy said there is a project currently under review where the applicants did not ask for a second driveway because the architect is familiar with the Town policies. When she told him the Council was considering this ordinance and what it involves, they were excited about it. The existing house sits at the top of a ridge and the driveway curves up a steep slope and comes to one end of the house. The ADU is proposed for the other end of the house and there is too much distance for fire safety between the driveway and the unit. She said even having a short spur driveway would be helpful with that. She said under the current ordinance, they would need to apply for a variance.

Councilmember Richards said he was somewhat conflicted on this issue. He noted the comments about the potential of making it appear more subdivided is a little worrisome. He said there are cases where a second driveway would be useful and not create that problem but he does not know how to define it before the fact.

Mayor Wengert said she wants to be cautious about it as well. Councilmember Hughes said it should always be a very difficult thing to get approved. Mayor Wengert said it should be a very high bar. Mayor Wengert asked if staff could provide some suggestions based on the comments being provided. Town Manager Dennis said perhaps the process is sufficient to keep it in place and not included in the streamlining. Vice Mayor Aalfs said it currently would require a variance, it might just be kept that way. Town Manager Dennis said staff will discuss it, see if there are other alternatives, and bring back some options. Councilmember Hughes said the problem with leaving it as a variance is the goal is being contrary to the goal of making a more streamlined process. Mayor Wengert asked staff if they had an idea of what percentage of properties this might impact. Planning & Building Director Russell said it may be 5 percent.

- Policy Decision F – Owner Occupancy

Councilmember Hughes said it is not uncommon in this affluent community that people do not own the houses they live in, even if they are effectively the owner, because an LLC owns it or a trust owns it or the parents own the children's house or the grandchildren own the grandparents' house. He said there are a variety of ownership structures that are not technically owner-occupied. He said he would not want to prevent anyone who owns under any of those structures from being able to have a second unit. In particular, he said he's thinking of grandkids owning the grandparents' house and they want a second unit for a caretaker to live there. He said he does understand the concern about absentee landowner developers who will come in and put two houses on a lot that they then rent out separately and the two occupants have nothing to do with each other and don't necessarily care a lot about the properties.

Mayor Wengert said, given the pervasive nature of LLCs relative to ownership and estate planning, she agrees nobody wants to get into individual affairs of how people hold title to their homes. She said the approach is to try to encourage as much local ownership as possible, which is increasingly difficult. She is concerned that many people are monetizing residential real estate already and, to the extent that these units could potentially create value, this could create more demand. She said in that environment there will be more absentee owners. She said it is not reasonable to effectively enforce the rule. She said rentals should be limited to 30 days and longer.

Councilmember Hughes said the 30-day limit does not restrict the ability of an absentee developer landlord investor to buy the property and rent both houses. He said owners of longer-term rentals will likely care for and maintain properties more than an Airbnb owner might. He said there was definitely a concern about having a large property with a big main house and a large ADU that are both rented out and nobody overseeing or caring about the property. Mayor Wengert said she shares that concerns but does not know how to solve for it.

Councilmember Richards said he attended a meeting in San Mateo where an ADU presenter from Portland said owner occupancy was one of the main impediments to the success of ADUs, which is odd if there is no way to enforce owner occupancy. He said restrictions on rental periods would be sensible, but there should not be an attempt to enforce owner-occupancy.

Councilmember Hughes asked the Town Attorney if the Town changed the ordinance to require owner-occupancy because absentee landlords became a huge problem in town, if that rule would apply to existing units or if the existing units would be grandfathered back to no requirement for owner occupancy. Town Attorney Silver said she would have to research that question. She said an ordinance might be crafted that could be prospective but there might be a property right interest. She said typically with ADUs, there would be a discretionary permit and then the discretionary permit is vested and the Town cannot impose additional restrictions. But since these are ministerial permits, there may be a distinction. Councilmember Hughes said the Town would be regulating the commercial activity of the rental, not necessarily the property right.

Mayor Wengert said in the October 3 Planning Commission meeting there was a chart showing that Menlo Park, Atherton, and Palo Alto all have owner-occupancy requirements with ADUs, as well as short-term rental restrictions. She said they don't have deed restrictions. She asked Town Attorney Silver to research that. Councilmember Hughes said it would also be interesting to understand if this was something the Town can apply later if it starts to become a problem. She said she was loath to give up the owner-occupancy requirement because it would be difficult to get it back.

Councilmember Hughes said most absentee landlords are not bad. He said there are plenty of properties in town that are rented. He reiterated what Vice Mayor Aalfs said, that the goal is to create housing stock in a way that fits with the community. He can understand the fear, but does not know how real it is. He said his inclination would be to wait and see how it goes, as long as there is the ability to fix it if it is going in the wrong direction.

Town Attorney Silver said another option is a requirement to have some type of property manager to be available.

- Policy Decision G – Staff Discretionary Review

The Council was unanimous in their support of the proposed staff discretionary review process.

Mayor Wengert invited discussion regarding the difference between exterior and interior access to a basement. Councilmember Richards asked about the thought process to reach this decision.

Planning & Building Director Russell said they were looking for where there were inconsistencies and barriers to ADUs and if there were places where incentives for streamlining could be provided. She said the Planning Commission did not feel comfortable with the incentives approach but there was a lot of consensus around removing barriers and creating consistency. She said basements was an area where the code was more punitive to ADUs than to a regular house. She said it was then developed through conversation, through public input and how it would be interpreted, which resulted in the idea of internal and external access, similar to how they would look at the interpretation for main buildings – if there was internal circulation between buildings, if they were functioning as separate uses. She said they have heard from people who wanted to use basement area under the ADU associated with the main house and not associated with the ADU.

Councilmember Hughes said he dislikes basements and his initial reaction was that this was a terrible idea. He said especially the weird situation where there is a converted internal unit inside a main residence which already had a basement. He said now there would be a basement under the unit that did not previously count against the floor area but now it does, but not if that same ADU was outside the house. He said it would likely be cost prohibitive to cut a basement under an ADU. He said all of the other requirements would still apply regarding grading, cutting, fill, landscape, energy, etc. Councilmember Hughes said he is now acceptive of basements for flexibility and he can see situations such as a bigger project, not just adding an ADU, where it makes more sense to put the boiler for the ADU and the pool equipment in a basement.

Town Manager Dennis reviewed staff's action items for the next meeting, including an analysis of the ADUs that have been built in the last three years with AMFA percentages 25, 30, and 40; updating the previous spreadsheet to include information on properties built in the last three years without ADUs; differentiating between new and existing construction; alternatives to the issues around second driveways; and, owner-occupancy analysis on how other towns have handled it and if changes can be made to an ordinance later if things don't go well. Town Manager Dennis said the programs and secondary issues will come back at the next Council meeting, asking the Council which issues should be eventually built into the longer-term work program.

Planning & Building Director Russell said that in the process of drafting and updating the ordinance with the Planning Commission, staff has identified some very small formatting, word choices, outline form, etc., and they would like to make the very minor changes and some minor word choices and bring that back to Council for review.

Councilmember Hughes said the 30-day rental restriction should apply to the main residence as well as the house for those properties that include an ADU.

Mayor Wengert thanked everyone who came to listen and participate and who were involved in drafting all of this fabulous work.

Councilmember Hughes mentioned the concern about residents not getting mailers about the meeting. Mayor Wengert said there were mailings sent and the record should have been corrected after that comment.

(6) **COUNCIL LIAISON COMMITTEE AND REGIONAL AGENCIES REPORTS**

Councilmember Derwin – Absent

Councilmember Richards -- Attended a HEART Steering Committee meeting regarding ADUs where they discussed developing four plans within the next month or two. He attended a Conservation Committee meeting February 26 where they discussed a damaged tree at the frog pond, minor work to be done at Spring Down, work to be done on the heritage oak at Town Center, and the upcoming broom pull on March 3.

Councilmember Hughes – Attended Trails & Paths Committee meeting where the PV Ranch residents discussed Coal Mine Ridge Trails and the Committee Annual Report.

Vice Mayor Aalfs – Attended the 2019 Joint Venture State of the Valley Conference on February 15, where there was discussion about the CASA Compact, and a presentation from SPUR, formerly known as the San Francisco Bay Area Planning and Urban Research Association. He attended the California Energy Storage Association Technology Forum on February 26.

Mayor Wengert – Attended a C/CAG Finance Committee meeting today. She said LAIF is still outperforming the County pool. She said they discussed the substantial reserve and had the election of new officers. Mayor Wengert was appointed Chair of the Committee.

(7) Town Manager Report – Town Manager Dennis attended the first meeting of the South Bay Airport Roundtable, where they discussed their bylaws, who would be the chair, and how this Roundtable will interact with the San Francisco Roundtable. He said Kari Chinn will be joining staff on March 18 as the new Communications Analyst. He spoke with cyclists about installing a small bike fix-it station at Triangle Park that they will potentially donate materials for and install. He spoke with American Green Zone Alliance about potentially helping staff with outreach and education regarding leaf blowers. He said the wildfire conversation is coming to Council at its March 27 meeting. He reported that Bicycle, Pedestrian and Traffic Safety Committee will meet next week to discuss the draft Pedestrian Safety Study. He is working with the Trails Committee about having PV Ranch come to their next meeting to reintroduce some trail issues.

**WRITTEN COMMUNICATIONS**

(8) Town Council Digest – February 14, 2019

None.

(9) Town Council Digest – February 21, 2019

None.

**ADJOURNMENT** [10:15 p.m.]

Mayor Wengert adjourned the meeting.

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Mayor

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Town Clerk