

**PORTOLA VALLEY TOWN COUNCIL REGULAR MEETING NO.965, MARCH 13, 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 Maryann Derwin, Craig Hughes, John Richards; Vice Mayor Jeff Aalfs; Mayor Ann Wengert

Absent: None

Others: Jeremy Dennis, Town Manager  
Brandi de Garmeaux, Assistant to the Town Manager  
Laura Russell, Planning & Building Director  
Howard Young, Public Works Director  
Arly Cassidy, Associate Planner  
Cara Silver, Town Attorney  
Sharon Hanlon, Town Clerk

**ORAL COMMUNICATIONS**

(1) Presentation – Countywide Flood Control and Sea Level Rise Resiliency Agency

Larry Patterson, working with San Mateo County outreach plan for Flood and Sea Level Rise Resiliency Agency, led a PowerPoint presentation regarding C/CAG's proposed Flood and Sea Level Rise Resiliency Agency. He discussed why the agency is needed, key aspects of the proposal, the start-up schedule, the funding breakdown, and endorsements. He requested endorsement of the FSLRRA Proposal and approval of three-year annual funding.

Mayor Wengert invited questions from the Council.

Councilmember Hughes asked if the County was still responsible for the \$400,000 on the MOU support if the Agency is not formed. Mr. Patterson said the challenge is the funding provided by the County was not indefinite and the time limit is coming up over the next year. He said staff involved in MOU projects are on limited term assignments that will end in June 2019. He said if the agency is not formed and the permanent funding source is not established, the Flood Control District will revert back to the County.

Councilmember Hughes asked how the tiering for the cities was developed. He said Portola Valley is on the small end of population for the County, which means it pays approximately 5x. Mr. Patterson said this issue was discussed at great length and they tried to make it as simple and equitable as possible. In response to Councilmember Hughes' question, Councilmember Derwin said Hillsborough was very supportive. She said she is on the Countywide Water Coordination Committee, consisting of elected officials. She said they initially looked at seven tiers and she helped to talk the numbers down for the smaller cities and they landed on three tiers after extensive discussion.

Mayor Wengert said the experience has been with a lot of agencies and projects that the numbers rise quite quickly. She asked if there were projections of how this might look beyond the three-year fixed time period, because it does have more material impact on a small municipality such as Portola Valley. Mr. Patterson said it would be conjecture at this point, in part because there is no investment plan yet. He said he does not expect population to be the criteria for funding in the future. He said he predicts the reaches along the coastline will break into groups, which will form additional MOUs, which may be the models going forward. In each case, there will be cities who are directly involved and directly benefitting,

sitting down to talk about how they're going to share the costs and what those costs are going to be. He said for Portola Valley, there may be limited conversations in that area, because there may be Countywide issues or stormwater quality issues that would suggest the Town's participation. He said he does not think it will be even for everyone and does not think population will be a measure of how the future is funded. He said it will be based on a reach and what projects and work needs to be done within that reach to get those projects completed.

Mr. Patterson said it is important to access <https://resilientsanmateo.org> to find a lot of information and to track what's happening with the other cities in terms of endorsement.

Councilmember Derwin said it is incredible that this agency has come this far this quickly. She described the genesis of the agency and commended Larry Patterson, Town Manager Dennis, and all the people who have worked on this. She encouraged support from her colleagues.

Jerry Hearn. Mr. Hearn lives in Los Trancos Woods and has been involved in environmental activities for 30 years as a volunteer. He said a lot of his efforts have gone into the San Francisquito Creek Watershed flooding issues and things like that. Mr. Hearn said it is very clear that the bay side of San Mateo County will be one of the most affected places in the United States due to the rising sea level. He said it took a while to get the JPA rolling, but once started, the power that came out of it was amazing. He said they have just finished a \$73 million flood control project in a fairly reasonable short period of time, once they gave up on receiving money from the Federal government. He said because there were five entities involved, money was easier to raise. He said the communities have to work together, especially with a shoreline. He said people who live here may wonder, "What's in it for me?" He talked about the infrastructure that residents may not realize they are dependent on that will be affected by the rising sea level, things such as San Francisco airport, Highway 101, emergency services, water infrastructure, sewage and treatment plants, communications, food service, childcare, economy (Google, Facebook), etc. He said what's in it for us is the preservation of our current way of life.

## **CONSENT AGENDA**

- (2) Approval of Minutes – Town Council Regular Meeting of February 27, 2019. *[Removed from Consent Agenda.]*
- (3) Approval of Warrant List – March 13, 2019, in the amount of \$134,951.14.

Councilmember Richards moved to approve Item 3. Seconded by Vice Mayor Aalfs the motion carried 5-0, by roll call vote.

- (2) Approval of Minutes – Town Council Regular Meeting of February 27, 2019. Vice Mayor Aalfs moved to approve Item 2 as amended. Seconded by Councilmember Richards, the motion carried 4-0-1, with Councilmember Derwin abstaining.

## **REGULAR AGENDA**

### **PUBLIC HEARING**

- (4) 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 introduced Planning & Building Director Laura Russell and Associate Planner Arly Cassidy. She also thanked the Planning Commissioners in attendance - Chair Jon Goulden and Commissioner Anne Kopf-Sill.

Planning & Building Director Russell announced several handouts were available in the back of the room covering the key elements being discussed this evening. She thanked everyone for their active participation in this process. She said the written comments received by staff since the staff report was published are included on the dais for the Council's consideration. All other comments received are included in the staff report. Planning & Building Director Russell introduced Associate Planner Cassidy.

Associate Planner Cassidy explained that tonight is a continuation of the review of the draft ADU ordinance, which began at the February 27, 2019, Town Council meeting. At that meeting, the Council requested staff provide additional data and background material. She explained that tonight's staff report is an addendum to the February 27, 2019, staff report. She explained tonight's review will include the discussion items (maximum ADU size, second driveways, owner occupancy, formatting changes), public feedback, and recommended actions as detailed in the staff report. Staff recommended that the Town Council review the draft ordinance, receive public comment, and provide direction to staff regarding any necessary changes.

Mayor Wengert invited questions from the Council.

Councilmember Richards thanked staff for all the good work. He asked if people on smaller than 2 acre lots could apply for a variance if the driveway option was removed. Associate Planner Cassidy said they could, which is the situation that currently exists. She has never seen an application for a second driveway. She said they generally discourage use of variances to get around regulations and said the findings are very difficult to make and rely on unique situations.

Councilmember Hughes thanked staff for all the good work. He had no questions.

Councilmember Derwin said she attended many of the Planning Commission meetings and expressed appreciation for the work of the Planning Commissioners. She asked if there would be a pathway through the ASCC or variance process to build a larger ADU if the maximum limit was set at 1,200 square feet. Associate Planner Cassidy said it would require a variance if someone wanted to build larger than 1,200 square feet. She said if the AMFA allowed it, but not the ADU maximum restriction, the variance would be for the ADU restriction. If the applicant wanted to build beyond the AMFA, that would be a different reason for the variance. Planning & Building Director Russell said it would be very unlikely that variance findings could be made for a larger ADU. Planning & Building Director Russell said the maximum ADU size would be the maximum and there would not be a path to approve larger than that maximum. She said the Planning Commission considered that and subsequently proposed that ADUs over 1,200 square feet up to the maximum size would require discretionary review.

Vice Mayor Aalfs asked if the variance findings for a second driveway would be more stringent. Planning & Building Director Russell said the variance findings would come from State law, which are very difficult to make. She said they require a unique aspect of the project, the physical aspects of the property. She said in this community there are already a lot of natural features, so there would need to be something unique to an applicant's property beyond similar-situated properties in their same zoning district.

Mayor Wengert said there may be situations that are different for an internal conversion, where people may be taking an existing older property and have a floor plan that may require some flexibility. She said an older home may have, for instance, a lower story of 1,400 square feet and an upper story of 1,400

square feet. She said while she believes there should be a maximum that applies to both internal and external ADUs, in the case of an internal, there may be a way to potentially segment that out. Vice Mayor Aalfs asked if an existing house that had a 1,400-square-foot level that was an obvious place to build an ADU would count as a unique condition of the property by the variance law. Planning & Building Director Russell said it would not. She said the Council may consider differently internal ADUs that are conversions of existing space without a change to the building footprint. She said the Planning Commission did discuss that as a potential approach to this type of scenario. She said there could be a hard maximum for an external ADU that is different from an internal ADU that might accommodate the example of an existing lower level that is currently greater than 1,200 square feet. Mayor Wengert said in the instance of an older home, rather than someone buying that home and tearing it down and building a much larger property, more flexibility could be allowed for them to use the lower floor to accommodate an internal ADU that may have slightly more square footage. She said existing smaller older homes could be disadvantaged by some of these limitations.

Mayor Wengert asked why the AMFA wasn't mentioned in Section B.4.b.iii. Planning & Building Director Russell said the term "base zoning district" is used instead of AMFA because AMFA only applies to residential zoning and the ordinance would allow ADUs in all zoning districts.

With no further questions, Mayor Wengert opened the public hearing.

Nancy Shostak. Ms. Shostak applauded the hard work everyone has done on the ADU proposal. She said she has thought about what the town would look like if the maximum size ADU was allowed and there was an influx of ADUs with renters. She said Portola Valley is environmentally fragile and also fragile in terms of emergency resources. She said she just retired from teaching geology, specifically earthquake hazards, at San Jose State. She said she studied the 1906 earthquake in great detail and knows what will happen the next time there is an earthquake here. She said the town was lucky in 1989 because the rupture stopped at Page Mill Road and did not come all the way north. She said if it had, there would have been a great deal of devastation. She said stress is building up on this section of the fault which is locked. She said it is not a matter of if but when there will be a major earthquake. She said she recently completed the Community Emergency Response Team (CERT) training provided by the Woodside Fire Protection District. She said she is acutely aware of what will happen with a wildland fire, major earthquake, or even worse, a major earthquake followed by fire. She said the town will be pretty much on their own for a period of weeks. She said the one fire station in town is staffed by four or five people and the other firefighters live across the bay or in other communities and it would take a very long time for them to get to Portola Valley, if even possible. She said if 1,700-square-foot ADUs are allowed, her concern is they will draw a lot of families but will not be providing affordable housing. She said it would be wonderful to provide affordable housing to the emergency responders, teachers, Town staff, and others intimately connected with Town. She said she is not as sympathetic to the tech employees of huge companies that should be providing housing for their workers. She supports a maximum ADU limit of 1,200 square feet. She said she and her husband tore down their house and rebuilt it in the same spot. She said they have a 625-square-foot ADU with one bedroom, a bathroom, a walk-in closet, and an open living area. She said they can accommodate extra cars on their 2-1/2 acres. She said in the Corte Madera area street parking is already crowded, and if larger ADUs are allowed more people would need to park on the street. She said her concern is about access by emergency responders or gridlock that would prevent people from evacuating their residences.

Bob Shostak agreed with his wife. He said if there is a substantial increase in the town population, it will detract from the wonderful rural character in Portola Valley. He said looking at what is happening on the Peninsula along El Camino and what Google is promising, there will be tens of thousands of additional housing units available there. He said the ability to build a 1,700-square-foot unit with a separate driveway and separate utilities is a magnet for developers to come in and buy existing properties, building out the land with large ADUs, and then renting out both houses. He said many of his neighbors and readers of PV Forum were not aware that this measure was being considered. He asked that there be

some kind of survey taken of residents to get their opinions and let them weigh in. He said several years ago there was a basement restriction measure proposed that the Council was scheduled to vote on. He said one of the residents mailed a letter to everyone in the community asking them to weigh in and the outcome was that it was substantially opposed.

Bruce Roberts, 40 Hillbrook. Mr. Roberts said he wrote to Town Council on February 25. He said 60 percent of the lots in town are 1 acre or more and 40 percent are under 1 acre. He said he appreciates that those on 1 acre or less could be more impacted than those living on larger lots and have more concerns about larger units. He said there is a huge difference between internal and external ADUs. He explained his home is 5,100 square feet, built in 1960. He said he has 1,632 square feet downstairs that includes two large bedrooms, a large kitchen, a large 500-square-foot den with a fireplace, and large hallways. He said his neighbors can't see it and no one is impacted by his property. He said he raised three children at his home who at various times lived downstairs. He said at various times there were more than five cars on his property. He said he has a four-car garage with two cars downstairs and two upstairs. He said he also has a second driveway that has existed since 1960. He said his house originally had three driveways and when he remodeled the upstairs, he removed one of the driveways. He wants to be sure that if he has an existing second driveway, it will not be disallowed as part of his internal ADU application. He said with regard to the owner-occupancy rule, he does not intend to move away permanently, but he would like to be able to live in Barcelona for a year, renting out the second unit while he's gone. Or he might live downstairs and rent out the larger home upstairs. He said his rear neighbors have had tenants for 39 years, different all the time, never a problem. He said rather than taking polls and lollygagging around, ADUs have been discussed for at least three years and the residents who read the paper or check any of the websites should know about it. He said if this ordinance is not passed now, the State of California will force the Town to build multi-family housing.

Dolores Dolan, 105 Shawnee Pass. Ms. Dolan thanked everyone for all the work done. She said she mailed a letter to Council expressing her concern about how the ADU size is determined. She said it appears more square footage is given to people with larger homes which is an inequity to property owners.

Virginia Bacon, 205 Golden Oak Drive. Ms. Bacon said the requirement for 2 acres or more for a second driveway should be removed. She said she lives on a 1+ acre property where a second driveway would make a lot of sense on her property. She said if she were to extend her existing driveway to an ADU, it would parallel a road, which doesn't make sense.

Phillip Vincent. Mr. Vincent thanked the Town for all the work they've done on this issue. He said he thinks the Town should resist the State mandate and foresees that the State will continue to add more and more requirements. He said he supported the idea of additional dwellings in support of the affordable housing effort but he regrets that now because he was thinking of conversions of existing space and not added space. He said there is the philosophical question of what control the Town has over our local areas. He asked how Woodside, Los Altos Hills, and other similar communities are dealing with this issue. He said Redondo Beach is now in a lawsuit with the State over similar issues. He said communities in Orinda are also somewhat resisting. He said there are multiple definitions of density, including unit or structural density. He said a fundamental philosophical political question is the local rights relative to the State government control. He mentioned a map that shows that only the area where he lives on Portola Road is impacted. He said his area has very narrow streets and is very crowded with a lot of flag lots with ADUs. He said if the Town is going to provide affordable housing, then the Town should buy properties, develop them, and sell them. He said Habitat for Humanity has restrictions on their buildings so they cannot be sold for profit. He said his suggestion would have the Town sharing the impact instead of having most of the impact be on a certain small set of people.

George Andreini. Mr. Andreini said he has lived here many years. He said he bought his first small house here because he wanted to raise his family in a less populated area than where he lived in San Mateo.

He said he does not understand what has motivated the Town Council and Planning Commission to come up with such a sweeping change to the existing Town of Portola Valley. He said there used to be 750-square-foot guest houses, then 1,000 to 1,500, and now a proposal for 1,700 square feet. He said it is a mistake to believe this will make it possible for firefighters and school teachers to live in this community. He said the Planning Commission is compromising the basic assets that have made Portola Valley so great. He said the townspeople donate to open space in order to preserve the rural aspect of town. He said that kind of activity is contrary to putting in separate driveways, separate addresses, compromising the size of the lots by building larger units, moving families in from wherever, the traffic, the additional police and fire response required, the additional school teachers, and additional school rooms. He said Portola Valley is a pristine situation between San Francisco and San Jose – a rural community with exceptional schools, a vibrant and supportive community, and limited commercial space rentals. He said the original volunteer governments worked to preserve what this community is all about. He said as we go through life, we strive to better ourselves and the lives of the people we love, and we work hard to have something that's unique. He said the people that live here and have built here live better because of the uniqueness of this community. He said the new rules may make it so interesting economically that a citizen previously concerned about Portola Valley is now concerned only about himself. He said he does not understand why the Town would compromise the existing restrictions in order to generate rental income. He said no one will rent out their 1,700-square-foot ADU for \$500 a month instead of \$4,000.

Barbara Oliver. Ms. Oliver said she has lived in Portola Valley 48 years. She said the Alpine Hills area has several smaller and older homes ripe for change. She said she questioned whether the sweeping changes would achieve their stated purposes. She said it is an open invitation for changing the character of the smaller homes, demolishing and building two units, which becomes a financial scheme. She said a lot of her concern has to do with the size of the permitted units. She said 1,700 square feet is a full scale home which is a completely different character. She questioned why the Town was proposing that much more square footage than required by the State. She hoped the Council would consider the unintended consequences of such sweeping changes for numbers and sizes of units.

Helen Wolter, 4660 Alpine Road. Ms. Wolter thanked staff for the great outreach – the postcards, the PV Forum, the emails from staff. She said she is a single mom and sole heir to a 1.75-acre lot here in Portola Valley. She said they are trying to build an ADU on the lot and appreciates the flexibility that this proposed ordinance offers. She said she lived for 11 years in an 1,100-square-foot house with three bedrooms and two baths so she has been surprised by the limitations that 1,000 square feet was presenting to architects. She said she has talked to eight or nine architects, two of whom are willing to build a two-bedroom, two-bath unit with 1,000 square feet. The others said it was not possible. She said she has children and would like the flexibility. She said she looked at prefabs and none worked with 1,000 square feet. She said the perception of affordable housing versus reality does not match. She said neighborhood and property values increase with affordable housing. She said ADUs are not subsidized but are private properties, not developers adding ADUs to their lots. She said currently anyone with 2 acres can subdivide and it's not happening. She said she is also working with the Parkland and North Bayshore. She said there are 6,000 units proposed for the City of Mountain View, and she understands are another 14,000 in the pipeline. She said for Portola Valley to add 10 units a year, a total of maybe 100 units in the next 10 years, is not a lot. She said this is a regional issue and everyone needs to help. She said 1,700 square feet is too big, but she supports the increased flexibility. She supports the second driveway option if it reduces impervious surfaces and separate addresses for safety and for bills.

Mayor Wengert announced there were no more speaker cards but invited additional comments from the public.

Greg Franklin. Mr. Franklin responded to some of the post-hearing commentary around the last meeting of the Town Council. He said there was reference made to calibrating the maximum size with the size of the units at the Sequoias. He said the residents of the Sequoias have access to and use tremendous common facilities which essentially discounts the amount of space they actually need to live in and should

be an important consideration. He said it was noted that census-wise, the town population has actually reduced by more than 500 people over the last 40 years. He said care must be taken regarding the legislation invited because of the demographics. He said the median age of the town is 55, which means 2,500 people in town are 55 years of age. In 5 or 10 years the median age will quite likely be higher. He was supportive of flexibility for second driveways on properties of less than 2 acres. He said he lives on 1 acre. He said because the cul-de-sac on which he lives wraps around his house, the Town has graciously allocated him 50-foot frontages on three sides of his home. He said that presents problems for siting an ADU. He said where he would have to place an ADU could not be serviced by his primary driveway. He repeated his previous compliments to the Town staff and Planning Commission for the amazing amount of work they've done on this incredibly complicated issue. He said he has talked to other residents in town, trying to communicate the complexity. He suggested these great presentations are appended with narratives and then put up on the Town website as You Tube videos.

Maria Southgate. Ms. Southgate said she was born here. She questioned whether so many changes had to be made all at once. She said she understands a lot of time, energy, and effort has gone into it, but suggested maybe there could be some small changes. She said she drove up Corte Madera Road this afternoon and there was a car parked on the side of the road so she had to pull over and stop because two cars could not get by it. She asked if someone would be allowed to remodel and expand their home if they do not call it an internal ADU. She said in some cases a second driveway makes sense for safety reasons regardless of whether or not there is an ADU.

Randy True, Alpine Road. Mr. True moved here with his wife a year ago. He was supportive of the You Tube video idea. He said he is a new teacher and is a big believer of video-based education and watches a lot of math and science videos. He said he reached out to his brother, who works for the San Francisco Mayor expediting new housing, to bring himself up to speed on the housing crisis in California. He said it is his understanding that RNHA is what guides the State, with the current cycle being 2015 to 2023. He said Portola Valley's allocation over that time is 64 or 8 units per year. He said his understanding is that 34 have already been produced. He said there should not be the pressure that we are not pulling our weight because the State goals are being met. He said in terms of affordability, which is a big issue, it seems like providing very low income or low-income housing in Portola Valley will be difficult and it is arguable whether that is even appropriate. He said in chatting with neighbors, he said the dream is that new housing can be built, such as the proposed 11-unit duplexes, to provide some mechanism for first-time homebuyers that are local teachers or city workers, having the Town help these first-time homebuyers who work in the community.

Mayor Wengert said many of the comments are related to things that have been discussed and studied for a number of years. She said the Strategic Housing Plan explains what the Town Council has been doing in this regard. She said the Town Council is now into the second year of these activities and the ADU issue is the first of a three-pronged approach. She said the ADU research and everything studied related to changing the ordinance is all driven by multiple factors, not the least of which is to provide flexibility for residents who want to have children live at home, want to age in place, want the flexibility to change out their existing homes, and to really be able to facilitate individual living situations. She said everyone should understand that everyone's parcel has an attached square footage that is their maximum, specific to each property, taking into account topography, geology, etc. She said no one will be able to build additional square footage over what is already allowed today. She said the Housing Strategic Plan also talks about this as one strategy where the Town is looking to the citizens to give them the maximum flexibility to do with their properties what they need and want to do without increasing square footage on any of the lots, with every parcel staying at the same maximum square footage. She said, moving forward, other proposals will be considered for other possible ways to provide affordable housing and locations that make sense in town.

Mayor Wengert closed the public hearing and called for a 10-minute break.

Mayor Wengert brought the item back to the Council for discussion.

- Maximum ADU Size – External

Councilmember Richards said the newly-provided expanded chart showed the amount of unused FA. He said increasing the accessibility of people in town in all zones will not result in a huge increase with a lot of places having a fairly limited ability to build. He said as far as overall size goes, he researched and found three three-bedroom, 1,200-square-foot ADUs randomly on the internet, which he shared with the Council. He said he has built a number of 750-square-foot two-bedroom, two-bath ADUs in town and said 1,200 square feet is not a small space. He said in the interest of preserving the town's rural atmosphere as much as possible, he would push toward the lower sizes. He was supportive of 1,200 square feet and 30 - 40% of the main house.

Councilmember Hughes said he has thought a lot about the term accessory and what that means about the size of the accessory unit relative to the main house. He said he would be uncomfortable going over 50% of the main house size for an ADU. He said he initially was supportive of providing property owners with more flexibility but has appreciated the comments from a number of people about not changing too much too fast. He said these numbers can always be revisited. He was supportive of 1,200 square feet and 50%.

Councilmember Derwin said her ADU is 750 square feet and seems very spacious to her. She was supportive of 1,200 square feet or 30% to 40% whichever is smaller. She said people are happier in smaller spaces.

Vice Mayor Aalfs said on the chart he noticed how many ADUs were below the current limits at the time they were approved and how many of them left unused AMFA. He said even when there is a limit, not everyone builds to it. He was supportive of 1,200 square feet and 40%. He said in his neighborhood, just off of Corte Madera, he thinks most do not have room to build an ADU. He said he has received requests from some neighbors on less than 1 acre that want to build small ADUs.

Mayor Wengert said 1,700 square feet is too much too fast. She is supportive of 1,200 square feet and 40%. She said if you have a smaller home built in probably the '50s or '60s, you would potentially be penalized by the 40% limitation which should not be encouraged. She suggested the 40% max be applied to all homes larger than 3,000 square feet. For example, if you have a 3,000-square-foot home, you will have the 40% maximum. If you have an existing home of 3,000 square feet or smaller, you would have the ability to build up to 1,200 so you are not penalized. She said this would provide flexibility so that people would not be encouraged to tear down existing homes or add onto the existing home just so their ADU could be larger.

Vice Mayor Aalfs asked if staff saw any unintended consequences of that modification. Planning & Building Director Russell said it seemed like a straightforward modification. She pointed out that some properties are allowed, under current code, to build ADUs up to 1,500 square feet on 3.5-acre parcels.

Councilmember Hughes said 50% of the 2,270-square-foot case study is 1,175 square feet, almost at the 1,200. He said an interior ADU would be 50% anyway under State law and suggested it may be simpler to go with 50% for both.

Mayor Wengert was supportive of Councilmember Hughes' suggestion for the symmetry. She said, as for internal ADUs, as mentioned tonight, someone may have a lower floor with 1,500 square feet, and it doesn't make sense that they should have to cordon off 300 square feet. She said the goal is provide flexibility. She said the statutory maximum should be 1,200 but allow for larger with a staff review. Councilmember Hughes asked if an internal ADU conversion of, say 1,600 square feet, would be allowed without a parking requirement. He asked if the State rights disappear at 1,200 square feet or if those



rights would be extended to whatever maximum limit the Town sets. Associate Planner Cassidy said that question has not been considered but at first glance she does not recall any language that specifically applies only to the path that must exist as far as the requirements. Mayor Wengert said she was reluctant to make this a variance situation; however, she said there are very few situations where this would apply and if it is situationally specific with a very limited number, the variance mechanism may apply. Planning & Building Director Russell said the variance is not the right tool. She said the Planning Commission recommended that internal ADUs over 1,200 square feet up to whatever maximum would require staff discretionary review, so those findings would have to be made. She said what has not been considered is Councilmember Hughes' question about the State requirements regarding parking spaces. Mayor Wengert said if the State-required additional parking could be part of staff's discretionary review. Associate Planner Cassidy said her understanding of the State law is that it does not allow jurisdictions to require parking for internal ADUs at all. She does not know if allowing more than the 1,200 square feet would then allow the Town to require additional parking. The Council asked staff to research this question further.

Mayor Wengert asked Councilmember Hughes if his spreadsheet showed a material difference between 50% and 40% on the larger residences. Councilmember Hughes said there was almost no difference. He said of all the examples on the spreadsheet there were two that had a very small difference. He said it's 50% for internal by State rule and would be simplified if the Town rule for external was also 50%.

The Council agreed on the maximum for external ADUs to be the lesser of 1,200 square feet or 50% of the main house; the maximum for internal ADUs to be 1,700 square feet; and maintain the 1,500-square-foot maximum for lots over 3.5 acres.

- Owner Occupancy

Vice Mayor Aalfs suggested one lease contract per property. He said the entire property, including the main house and the ADU, could be leased to one person, or one structure could be leased while the owners lived in the other structure. He said that would eliminate the option of developing the property to rent out both units to separate parties.

Councilmember Richards said he does not like the idea of requiring owner occupancy but understands the reasons behind it. He said he is not convinced the fear of speculators buying up properties to rent them out is valid or reality.

Councilmember Hughes said the LLC issue is not the only exotic ownership structure. He said there are situations where the kids own the property that the parents live in and they charge them rent for tax reasons, which in that case is renting the main house to parents and renting the ADU to the caretaker. He agrees that this is a worry that will not likely materialize, especially with the concept of accessory units that share a driveway. He said as a landlord you would want to lease out your 3,000-square-foot home to someone who would be willing to share a driveway with someone living in the 1,200-square-foot unit in the backyard, which does not make for an attractive rental property.

Mayor Wengert said the owner-occupancy rule was originally designed as an impediment to speculators, and it may still function in that way to some degree, particularly as the values go higher.

Councilmember Derwin said she likes the owner-occupancy requirement and does not feel the Town is quite ready to give that up – either the one lease or the owner-occupancy. Mayor Wengert agreed she would not want to entirely abandon the owner-occupancy requirement. She said the primary goal is to maintain the residential character of town. She said 10 years ago nobody saw the impact Airbnb would have and she would expect that trendline to continue in that way. She said while it may be a very small firewall that may be easily circumvented, it psychologically has great impact to suggest this is a community that is very focused and motivated to maintain its residential character. Councilmember

Derwin agreed it was an emotional issue. Councilmember Richards suggested the single lease agreement per property or owner-occupied.

A member from the public asked how a property that was allowed two ADUs would be handled. Mayor Wengert said it was not considered to make exceptions for that situation. Councilmember Hughes said that's why owner-occupied works better. Councilmember Richards suggesting maintaining the rule as-is for owner occupancy.

The Council agreed that short-term rentals would not be allowed.

- Second Driveways

Councilmember Richards was supportive of providing more flexibility and said there are situations where it makes more sense to allow a second driveway rather than placing driveways across the middle of properties. He said he did not think the issue would come up very often. He said the required findings should be strong enough they can't be abused.

Councilmember Hughes agreed. He said with the strength of the findings, the 2 acre limit seems somewhat arbitrary. He said he did not understand why a 1.9 acre property would not be allowed a second driveway and suggested removing the 2-acre requirement.

Councilmember Derwin asked staff if they anticipated a lot of requests for driveways if the 2 acre requirement was eliminated. Planning & Building Director Russell said they do not anticipate a lot of driveways and neither did the Planning Commission. She said 2 acres was just a way to draw the line because of the hesitation around second driveways. She said as the findings have been strengthened through the process, that is the most efficient tool.

The Council agreed to remove the 2 acre requirement for second driveways.

Planning & Building Director Russell asked for clarification regarding internal ADUs given the question about State law. Town Attorney Silver said the State law provides that the parking exemption for internal ADUs applies to all internal ADUs regardless of size. In response to Councilmember Derwin's question, Town Attorney Silver said in this context State law trumps local rules.

Planning & Building Director Russell also noted that the adopted ordinance will be forwarded to HCD.

Vice Mayor Aalfs said an unintended consequence of allowing large internal ADUs, with no requirement for additional parking, is that there could be eight drivers in one house. Mayor Wengert said the intent of allowing larger internal ADUs is not to allow for a lot of extra people and cars, but is to provide flexibility for preexisting conditions and to allow staff to have discretion to approve in those situations.

Councilmember Derwin asked staff if they had discretion to find a larger internal ADU reasonable. Planning & Building Director Russell said a discretionary review could be conducted with a site inspection. She said they would need to make the findings in the ordinance and, while they are comprehensive, she is not sure they exactly capture this issue about potential impact on neighbors or parking. Staff pointed out that the findings were crafted largely to address potential impacts from external ADUs. Councilmember Hughes asked if they could have ministerial review for 1,200-square-foot internal units as required by State law but have a different category for internal units over 1,200 square feet that go through discretionary review process. Planning & Building Director Russell said that is already included but the findings do not include parking impacts. She said the discretionary review could be for other issues, but could not be for parking per State law. The only other mandate for internal conversions relates to fire sprinklers where if they're not required for the main house, they can't be required for the internal conversions.

Town Attorney Silver said the rationale behind the State law assumes that with an existing structure you are going to be able to fit in a certain number of people with a certain number of cars and that parking is taken care of with the main house and by converting a portion of the main house into an ADU you will not be increasing the parking demand. There are other opinions about that, but that is the view of the State.

Mayor Wengert asked staff if they'd be comfortable with no additional findings to make a determination about an applicant who requested an internal ADU greater than 1,200 square feet in an existing building. Planning & Building Director Russell said the finding regarding minimizing impacts toward adjacent properties could have some value. She said although additional parking cannot be required, the Town may require something to be reconfigured on the site or screening, some way to block lights from the neighbors, a different way to pull in to the property, etc. She said staff would also have the benefit of the site inspection and an ASCC member participating in the review, so there could be some good ideas about door placement, lighting, etc., that may mitigate some of the other impacts. She said she does not see a solution for specifically addressing parking.

Councilmember Hughes said he was still somewhat uncomfortable with it and preferred an incremental approach. He said he was concerned there will potentially be some project on the worst possible narrow road with fire safety issues and no sidewalks, where there is a 1,600-square-foot unit with two or three additional cars that are now parked full-time on Corte Madera Road. He said nothing can be done if it's a 1,200-square-foot ADU, but that difference of 400 square feet is potentially an extra car or two and a lot bigger burden. Mayor Wengert said she comes back to the global view that people are going to do what they're going to do with their homes and there is no way to control all of it. Councilmember Richards said in the worst case the Town may have to start looking at parking restrictions on the streets.

- Programs

Per Town Manager Dennis's request, the Council agreed they had nothing to add to the three programs described – Pre-Approval/Alternative Building Materials; Coordinating with HOAs and PUDs to Support ADUs; and, Sewer Connection & Cost.

Councilmember Richards moved to approve First Reading of Ordinance as Amended to include 1) The formula to determine the size of an external ADU is 1,200 square feet or 50% of the main house, whichever is lower; 2) 1,700-square-foot limit on internal ADUs; 3) For lots over 3½ acres, maintain the 1,500-square-foot maximum size; 3) Retain the Owner/Occupancy requirement; and 4) Remove the 2 acre requirement for second driveways. Seconded by Councilmember Hughes; the motion carried 5-0.

Councilmember Richards moved to find the project exempt under CEQA. Seconded by Councilmember Hughes; the motion carried 5-0.

The Second Reading of the Ordinance is scheduled for the March 27, 2019 Town Council meeting.

## **STAFF REPORTS AND RECOMMENDATIONS**

(5) Recommendation by Town Manager – Council Priorities Study Session, FY 2019-20

Town Manager Dennis presented the Council Priorities report as detailed in the staff report. Staff recommended that the Town Council accept a status update on the current Council Priorities and provide initial feedback on their priorities for Fiscal Year 2019-20.

In response to Mayor Wengert's question, Town Manager Dennis said he felt roads, prefab units, and long-range fiscal planning efforts should be added based on previous Council input and subsequent conversations with staff.

Mayor Wengert invited questions or comments from the Council.

Councilmember Derwin asked Town Manager Dennis if the list was too much for staff to handle. Town Manager Dennis said they are currently short-staffed with 13 full-time staff members, down three. He said the list is ambitious but it always has been ambitious.

Councilmember Hughes said it's become increasingly clear that the climate is heading in a bad direction and a lot of work has to be done. He said he is not proposing adding things to the list, but said he would support symbolically moving sustainability up to the top of the list. He said there is a measurable chance that most 20-year-olds today will eventually die of starvation. Town Manager Dennis said they can move it up the list. He said Assistant to the Town Manager de Garmeaux is a champion of sustainability issues and has an aggressive set of activities she would like to undertake based on the Town. Once she has been freed of some of her recently undertaken duties, he is confident she will come up with a lot of ideas that can be implemented. He said staff can fashion the list in a way to give it a highlight. Vice Mayor Aalfs said there are several initiatives that can provide resources.

Town Manager Dennis asked the Council to point out any items on the list that could or should be removed. Mayor Wengert asked if something was precipitating Item 4(g), Health of Town Resources, Review Town contracts and insurance requirements. Councilmember Derwin asked about Item 4(f), Review and recommend updates to Town Center Use Policies and Applications. Town Manager Dennis said staff has been doing this in incremental steps as they respond to new situations and open up old projects. He said it may not need to be on the list because it will continue regardless. In response to Councilmember Hughes' question, Town Manager Dennis said Item 4 includes staff-related issues, fiscal-related issues, building related issues, etc. He discussed the importance of 4(a), Recruitment for the Next Generation – Generation & Millennials, for future staffing.

Mayor Wengert suggested Item 1(a) be expanded from "Review of potential housing" to "Develop and refine proposals related to affiliated and Town-owned programs." Town Manager Dennis agreed.

Mayor Wengert thanked the senior staff and expressed appreciation and pride for all the great work they do.

A final copy will return to the Council as part of the 2019-20 FY Budget.

- (6) Recommendation by Town Manager – Consideration of the Letter of Support for House Resolution 530 – Local Control and Small Cell Sites

Town Manager Dennis described the background discussion items regarding the Town Council's January 9 approval of an urgency ordinance to provide for expediting permitting for small cell sites in order to comply with Federal Law, as detailed in the staff report. Staff recommended the Council authorize the Mayor to sign a letter of support for HR 530 (Eschoo).

Vice Mayor Aalfs moved to authorize the Mayor to sign a letter of support for HR 530. Seconded by Councilmember Hughes; the motion carried 5-0.

- (7) **COUNCIL LIAISON COMMITTEE AND REGIONAL AGENCIES REPORTS**

Councilmember Richards – None to report.

Councilmember Hughes – Attended Bicycle, Pedestrian & Traffic Safety Committee meeting, where they updated on the Pedestrian Study. He reported that a car hit a bicycle that was crossing a driveway at the Priory. There were no serious injuries and the driver was not cited because the Deputy dispatched to the

scene was not trained to issue citations for that type of violation because it was an accident investigation. Staff will follow up with the Sheriff's Department regarding this incident.

Councilmember Derwin – Spoke at the Express Lanes Project groundbreaking. Attended a Foundation for San Mateo County Libraries meeting. She said April 10 is "Library Giving Day" and posters are available promoting it; however, Half Moon Bay and Portola Valley will not display the posters. Attended a C/CAG meeting where they discussed the retreat. Attended a Home for All Meeting with Mayor Wengert.

Vice Mayor Aalfs – Attended BayREN's Energy Reach Codes forum last week.

Mayor Wengert – Reported that the Parks & Recreation Committee meeting was canceled at the last minute due to lack of quorum. She said the Subcommittee Meeting with staff was productive and the ideas and thoughts will be coming to the agenda soon about how to change some of that, create some pools of resources, eliminate the monthly meeting requirements, recruitment, etc. Mayor Wengert and Town Manager Dennis met with Advancing California Finance Authority (ACFA), a group that provides financing for low-cost housing.

(9) Town Manager Report – Town Manager Dennis reported there was a car accident on Alpine Road this morning, probable DUI, and a non-resident was arrested at Corte Madera school where he allegedly trashed an office. There were some residents in the immediate area who were concerned that they should have been notified of an active search situation. The crossing guard service is receiving positive feedback, as well as collecting data. The trial service will be ending in a few weeks. Town Manager Dennis will speak with the Public Works Director to discuss next steps. Staff will utilize some of the funds from the Pedestrian Safety Study to perform a traffic survey in town. The budget process officially started on Monday. Departments are starting to prepare their budgets and submit to the Interim Finance Director by the end of next month. As part of this process, we will redevelop the Town's budget book to be of a more department-based budget. Next Tuesday the Sheriff will be in town to present home and personal safety information, to be held in the Community Hall. The wildfire study session will be at the next Town Council meeting.

### **WRITTEN COMMUNICATIONS**

(9) Town Council Digest – February 28, 2019

None.

(10) Town Council Digest – March 7, 2019

#4 – Notice – Agenda Packet for the City Selection Committee – March 14, 2019. Mayor Wengert discussed the upcoming City Selection Committee meeting to select two Councilmembers to serve on the CASA Legislative Task Force.

### **ADJOURN TO CLOSED SESSION: [10:27 p.m.]**

(11) Conference with Legal Counsel – Anticipated Litigation

Initiation of litigation pursuant to Section 54956.9(c) of the California Government Code: One potential case.

(12) Public Employee Performance Evaluation

Government Code Section 54957; Title – Town Manager

**REPORT OUT OF CLOSED SESSION – No Reportable Action**

**ADJOURNMENT** [11:45 p.m.]

Mayor Wengert adjourned the meeting.

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Mayor

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Town Clerk