

**TOWN OF WOODSIDE
Planning Commission Meeting**

November 16, 2016
Minutes

The meeting of the Woodside Planning Commission was called to order on November 16, 2016, at 6:00 P.M. in Independence Hall. The Pledge of Allegiance was recited.

ROLL CALL

Present: Chair Huberty; Vice Chair Hobson (arrived at 6:03 PM); Commissioners Fender, Kutay, Rosekrans, and Voelke

Absent: Commissioner Calia

Staff: Jackie Young, Planning Director
Jean Savaree, Town Attorney
Sage Schaan, Principal Planner
Sean Mullin, Associate Planner
Corinne Jones, Assistant Planner
Jennifer Li, Deputy Town Clerk

CALLS FOR CHANGES TO THE AGENDA

Director Young noted three desk items:

- An e-mail from Chair Huberty regarding recent State Laws concerning accessory dwelling units.
- A WMC section on current Accessory Living Quarters regulations.
- A WMC section regarding when the square footage of a garage could be subtracted from the total residence size.

PUBLIC COMMUNICATION

None.

PUBLIC HEARING

1. Fourth Study Session: Maximum Allowable Main Residence Size
Town-wide Planner: Jackie Young, Planning Director

This fourth study session will consider the direction to staff received from the Town Council on May 24, 2016, during its third study session on maximum allowable residence size: to increase maximum residence size Town-wide, while keeping the allowable Total Floor Area unchanged.

DISCUSSION

Jackie Young, Planning Director, presented the staff report. She noted corrections in the staff report on Page 4. There were ~~six~~ **five** projects submitted for Planning entitlements in the R-1 zoning district. Southdale should not be in the list. 128 Glenwood is the house that was completed. 439 Glenwood is

currently under construction. 439 Glenwood is not a flat lot. The part of her work that was not saved during creation of the staff report was a compare and contrast between 128 Glenwood and 439 Glenwood. The house on 128 Glenwood is nearly 3,000 square feet. They took advantage of the 440 square foot garage credit, so the actual square footage is closer to 3,400 square feet. That is a conforming lot at 20,000 square feet. The house on 439 Glenwood is similarly sized; however, it is on a lot that is about 15,000 square feet. The topography is different.

Commissioner Rosekrans asked if Table 3 on Page 5 shows the number of actual lots in Town.

Director Young said yes.

Commissioner Rosekrans asked: didn't we review at a previous meeting that there is a small percentage of undeveloped lots?

Director Young said yes, that was reviewed last time.

Commissioner Rosekrans said: if you divide the delta by the number of lots, then that number is an incremental increase.

Director Young said yes, the last column represents the delta increase (i.e., between the Fender and Town Council proposals).

Commissioner Rosekrans said in the SR district, which is very similar, that would be about 100 square feet more. The 10-acre parcels would be a little over 1,000 square feet more.

Director Young said yes.

Commissioner Fender asked if the floor area is a net or gross calculation, i.e., taking the existing residence size minus the maximum residence size.

Director Young said it is gross calculation based on lot size.

Commissioner Fender said then it won't take the delta in between.

Director Young said no. That was presented in the material last time. This was just a way to compare the two proposals. There are different ways to compare. She presented the "Actual House Size versus Lot Size Data SCP-5" chart from Commissioner Fender's November 2, 2016, proposal. The maximum square footage one could build under each scenario is everything above the dashed line. The maximum that could be built under the alternate proposal is the red line. The delta is the space in between these two lines.

Commissioner Fender said if there's an existing house, that's assuming an impossible case.

Director Young said it really speaks more to the ratio of change. As she mentioned earlier, we had a conversation about the potential square footage development versus the probable square footage development.

Commissioner Fender said it isn't even the potential because we need to subtract the existing residence.

Director Young said she measured to the line in the chart. We prepared other information in previous Study Sessions that dealt with the delta between existing and proposed. That's not what is in Table 3.

Commissioner Fender said basically, it's not a point by point calculation. It's basically taking all the various lot sizes and subtracting.

Commissioner Rosekrans said that Table 3 helps him understand the difference between the Town Council proposal and Commissioner Fender's alternate proposal.

Commissioner Fender said he would like to explore that a bit more. The problem he has is it doesn't take into account the existing house size, and it isn't what he would consider a worst-case scenario. It's an impossible-case scenario. There is no way that all the houses will be building up to the maximum on every single lot.

Director Young said right. The paragraph underneath the chart states that exactly.

Commissioner Kutay said that's what she understood as well.

Director Young said it's not saying everyone would build to the maximum. It's a measure of the differential, which is what she was asked to do. She was asked to look at what's possible under the Town Council proposal and what's possible under the alternate proposal. She agreed that not everyone would build to the maximum. The paragraph underneath says there is a difference between the development potential (which is just a strict calculation of what maximum residence size would be) and what the probability of that development would be.

Commissioner Fender said that's his problem. We're giving measures and comparisons that are not likely to occur. For example SCP-7.5 has 388,000 square feet. He doesn't want 388,000 square feet more building in that area.

Director Young said it's good to discuss that point. Looking at the SCP-7.5 chart, would we really want to increase that line when the data shows that there are very few outliers beyond the Town Council proposal?

Commissioner Fender said that's true; however, he's asking to go a step further. There's nobody in their right mind who will want 388,000 square feet more development.

Commissioner Voelke said she's lost in the intricacies of Fender's discussion. Hypothetically, let's assume there is a flat, unconstrained, 3-acre lot. The Town Council proposal says the maximum allowable residence size is 6,000 square feet. Commissioner Fender's proposal is saying the maximum allowable residence size is 7,000 square feet. Commissioner Fender is increasing the maximum by a huge proportion over the maximum house size allowance.

Commissioner Fender said that's assuming there are no constraints. Why do we have such a big number for SCP-7.5? He did some additional analysis with a point by point calculation of the next level of what one could do. The reason why he picked that red line is because the average lot size of the RR, SCP-5, and SCP-7.5 zones are about three acres. The SCP-7.5 zone has the smallest average at 2.3 acres. There should be parity between the RR zone and the SCP-7.5 zone. Strictly from a numerical standpoint, there should be no reason for the RR through SCP-7.5 zones to have different numbers because the average lot size is the same. Why would we think about regulating?

Commissioner Voelke said it's because the Town picked a system (i.e., the zoning districts), and worked with it.

Commissioner Fender said he's saying the system is in error. As a Planning Commissioner, we're trying to give it a fresh look after 20 years. We're using new tools and data to give the issue a new examination.

Chair Huberty asked for a motion to open the public hearing. Commissioner Voelke moved.

Chair Huberty invited anyone from the public to speak.

Dick Brown, Woodside Heights, thanked the Commission for all of their work. Ultimately, there are two proposals that are similar to each other and parallel to the Town Council's suggestion. He just wants to see action taken.

Dave Burow, Sheridan Way, thanked the Commission for all of their hard work. He echoed Mr. Brown's comments that we would like to see this issue moved forward. Commissioner Fender's proposal is similar to the one he submitted several months ago. The difference between the Town Council and Commissioner Fender's proposal is that Commissioner Fender's proposal illuminates the unfairness of people in the SCP zones compared to the RR zone. The Commission may say there are a small number of people in those zones; however, he hasn't heard any strong arguments for why those zones were constrained other than the historical situation at the time. Similar communities on the Peninsula have much simpler zoning regulations. He encouraged moving to a more fair and simple approach. Commissioner Fender's proposal achieves that without really causing any great impact on the overall square footage that could be built in Town. Chair Huberty's desk item about accessory dwelling units is another thing to think about that may decrease square footage on Town lots. That may mitigate whatever effects of the decision will be made for maximum house size. He urged the Commission to take action.

Commissioner Voelke moved to close the public hearing.

Director Young discussed recent accessory dwelling units information included in the Town Manager's Report to the Town Council last night. AB2299 and SB1069 will become law on January 1, 2017. They are new State laws related to accessory dwelling units. Primarily, they strongly encourage accessory dwelling units. One of the significant impacts it would have in Woodside is the maximum size of 1,200 square feet. Currently, the WMC allows 1,500 square feet for accessory living quarters (ALQ). It also sets time limits for processing these units. There is a good summation on the second page of the e-mail from Chair Huberty. From the State's perspective, the square footage limitation is to make these units smaller and more affordable. The limitation on the size and percentage to the main dwelling of an attached ALQ is intended to subordinate the ALQ to the main residence. It also has allowances for foregoing parking requirements. There was a question from Chair Huberty about the following statement: "accessory dwelling units may not count against the maximum density of the site." The way she reads this is for communities that have more variety in their zoning. Woodside only has single-family residential zoning. Larger-sized communities have zoning for single-family, duplexes, apartment buildings, and high-density housing. This statement means a municipality may not prohibit an ALQ to go into a single-family neighborhood. It is regarding density and the number of units on a lot. It is not saying that square footage is not counted.

Jean Savaree, Town Attorney, said that's what we think it means. These two pieces of legislation are a bit of a mess. There are conflicting provisions in both of them. Most cities are wondering if there might be some clean-up legislation. In the mean time, there is a very short time frame for coming into effect.

All the San Mateo County cities have joined together to try to understand the legislation so that we can bring something forward for consideration quickly.

Commissioner Voelke asked if this ordinance would allow a 1,200 square foot basement under a 1,200 square foot ALQ.

Town Attorney Savaree said it doesn't address basements. There is also a third piece of legislation that allows "junior accessory structures" be constructed in a garage (this legislation, unlike AB 2299 and SB1069, is not mandatory, but elective).

Chair Huberty said he knows there are limits on the number of accessory structures allowed per zone. Does the statement about accessory dwelling units not counting against the maximum density of sites conflict with the WMC?

Director Young said that's a good question. Staff had a conference call with a number of attorneys, all 20 cities, and the County. The WMC allows a maximum of two ALQs. In the R-1 district, which is the most restrictive zone, ALQs can only be attached. The State limits the square footage and the percentage of the unit that it can occupy. It cannot be more than 25% of the main residence size. It's something every municipality is struggling with; however, it does go into effect January 1, 2017. There wasn't enough time for cities to react because a code change needs to go to the Planning Commission and the Town Council for two hearings; then it takes 30 days to go into effect. Staff will work with the Town Attorney to interpret the new State laws to the best of our abilities, potentially without much further direction or clarification from the State. The Department of Housing and Community Development was also involved in the conference call.

Chair Huberty asked how it might impact the discussion tonight.

Director Young said it doesn't say that this square footage is "free" and doesn't count towards regulations. It may affect what portion of a house could be used for an ALQ; however, it would not affect the overall size. For example, if the maximum size of the main residence is 6,000 square feet, it doesn't mean someone can add a 1,200 square foot ALQ to get 7,200 square feet total. It still has to be within the allowed floor area. We still have the control of total floor area.

Vice Chair Hobson asked where it talks about the garage ("junior accessory units").

Town Attorney Savaree said that is a separate companion bill, which we have a bit more time to look at.

Director Young said junior accessory structures (i.e., converting a garage to an ALQ) are not mandated. They're elective.

COMMISSIONER DISCUSSION

Commissioner Rosekrans said that after the Berkeley/Oakland Hills fire, everyone who had to rebuild their homes built to the maximum. He also noticed that every house that has required review by the Planning Commission decided to build to the maximum. Over time, property owners will. This is not an unrealistic scenario, as Commissioner Fender has indicated.

Commissioner Fender disagreed. We can look at the probability of occurrence in the Western Hills. Those lots are topographically constrained. Even without regulatory constraints (e.g., maximum house size), people cannot build those big houses up there because of the topography. It's environmentally

constrained. This discussion is missing the consideration of the big picture, which are actual environmental constraints, existing house sizes, and the average lot size. Someone arbitrarily decided to connect the line to the 7.5 acre point, not thinking about actual average lot size. A maximum of 7,000 square feet is illogical. The lots are so small.

Commissioner Rosekrans asked what the main point of Commissioner Fender's proposal is.

Commissioner Fender said looking at the numbers, there's no basis of logic to see a difference between a SCP-7.5 acre zone and an RR zone.

Chair Huberty said Commissioner Fender is saying the limit should be the same on an RR zone and up due to lot size (i.e., 3 acre range). They're all the same size.

Commissioner Rosekrans said: so, a one size fits all.

Commissioner Voelke said she appreciated Commissioner Fender's work. She understood Commissioner Fender doesn't want big houses in Town. She echoed Rosekrans' comments that when one house is gone, the rebuilt house is built to the maximum. Engineering will allow things to be built. The thing that strikes her is that Commissioner Fender says there's no reason mathematically why they should be different, but he also says it would never happen up there because of all the constraints. That's why the original framers of this ordinance set it as such because they recognized differences in Town. The WMC still makes sense. She finds Commissioner Fender's proposed maximum residence size line in her neighborhood terrifying. She doesn't trust that the constraints will prohibit building because one actually cannot know what might happen in the future. She would like things to be as simple as possible. The Planning Commission was charged with a task by the Town Council to choose a scheme between two lines; whether to make that triangle go from existing maximum residence size at 1.5 x lot size to where you hit the maximum house size, or increase that by 10%. She's prepared to vote on those two proposals. If we wanted to explore an entirely different proposal, there would need to be more discussions. The compiled history of the Ad Hoc Zoning Committee staff did is only a portion selected out of 14 months of meetings. We only discussed five issues in that Committee. The proposal before us tonight came out half cooked already starting with the Zoning Subcommittee, to the Town Council, and finally to the Planning Commission. Commissioner Fender's proposal is interesting to discuss, and it might be in another time in conjunction with discussions regarding other ordinances. It is time for the Planning Commission to vote. She's prepared to vote on the Town Council proposal. She's prepared to look with interest at Commissioner Fender's proposal at a future time when we have the ability to propose them in conjunction with other things such as zoning. She sees it as a vote between the green line and the purple line. She's conservative. She might be in the minority opinion of voting for simply connecting the triangle to allow for increasing maximum house size in all zones for lots as they go from the minimum point of maximum house size to the 1.5 x maximum house size where you would normally get an exception. There should not be an Exception process. It should be granted by the Planning Director. It shouldn't have to come to the Planning Commission.

Commissioner Rosekrans left the meeting at 7:03 PM.

Commissioner Voelke said, among the many proposals reviewed in the 1990s, one of them was looking at maximum house size on extra large lots. That could be something to suggest to the Town Council. It wouldn't take as much study. For lots that are 10 acres or more, the maximum house size could be bigger with larger setbacks and maybe some restriction on total floor area. She's ready to vote on the Town Council proposal. She doesn't prefer the 10% increase. She didn't hear a great outcry around Town for people who can already build up to 8,000 square feet wanting 10% more. It's a reasonable proposition.

Commissioner Fender said he found the compiled history really interesting. The discussions today are the same 20 years ago. It's unbelievable. There were some gems he pulled out there to highlight. One was regarding difficult processes. Mr. Putnam had said that Woodside has a reputation for being the biggest nightmare for getting anything done. The permit process is arduous, nearly impossible, and encourages people to try to do things without permits. We have the same thing today, 20 years later.

Commissioner Voelke said it's actually better now.

Commissioner Fender said there is one regarding floor area calculations. Mr. Foley said "everyone seems to agree that our floor area calculations needed to be clarified and simplified." Regarding non-conforming lots, Mr. Wolper said, "A high percentage of residential parcels were non-conforming, particularly in the SCP zones." It was not indicative of the actual way lots were set up. Mr. Wolper further to said, "The Committee needs to discuss whether these non-conforming situations should be eliminated by rezoning to more accurately reflect what's really there." We obviously need to look at it. His assumes that 20 years from now, this issue will be revisited again.

Commissioner Voelke said we don't need to look at it. That's what came out of that discussion 20 years ago.

Commissioner Fender said there is a huge disparity. There is a strategy to separate zoning from maximum residence size. Every time he tries to have that discussion, it gets shut down to avoid opening up a big mess. Part II of the report assumes no changes in zoning for purposes of studying just this one issue. Even though there are disparities, it was decided to do some minor patchwork regardless whether changes are made in zoning. There were people back then who had the same thoughts as he does. There is something wrong here. Mr. Foley had said that in most towns, usually smaller buildings are considered more rural. Mr. Vartanian said the basic premise was having fewer structures on more environmentally fragile zone. This has been the basis of zoning in the Town since day one. Mr. Beaubois, an architectural consultant, said, "Development would occur in the weakest communities on the Peninsula where it was easiest to get projects approved." Finally, someone has come forward to say the process is difficult in order to prohibit development. There are a number of underlying assumptions. It reminded him of a number of quotes having to do with the past:

- "We have to do with the past only as we can make useful to the present and the future."
- "One must also maintain ones connection to the past, and yet ceaselessly pull away from it." He's been trying to do that a bit, and look at it with a different perspective; however, the past has a strong pull in the sense that people think that since it was done back then, it must be right, so they're going to continue doing it that way.
- "To design the future effectively, you must first let go of your past."
- "I try to learn from the past, but I plan for the future by focusing exclusively on the present."

Commissioner Fender said he is bothered by the entire issue of constraints. There are two kinds of constraints, which are environmental (what's actually happening out there) and regulatory (what we as a regulating body has created to prevent certain actions). We have to look at both of those. It appears that the past philosophy is to create regulatory constraints whenever there were environmental constraints (e.g., The Western Hills are environmentally sensitive and constrained). The lines are different slopes as lot size increases. That was the prevalent thinking. We can look at this differently. Why does the SCP-7.5 zone have the largest minimum lot size if it has the smallest lots and smallest houses of any zones around (excluding the R-1 zone)?

Commissioner Voelke said part of the reason was to prevent subdivision.

Commissioner Fender said yes, the reason was for subdivision reasons, not what was stated here in terms of: if it's in an environmentally sensitive area, we need to regulate more. The nature of what he sees is we created this scheme to prevent subdivision. But then, over the years, we've extended it, reused it, massaged it, but stayed with the basic philosophy. It's broken. If environmental constraints to building exist, then there is less reason for regulatory constraints. Why do you need them if they take care of themselves? Areas with steep slopes cannot have 8,800 square foot houses built on them; especially with other regulations such as larger setbacks. Regarding the project on Stadler Drive that the Planning Commission recently reviewed, it was a one acre lot in a 7.5 acre minimum zone. We allowed them to build a 4,500 square foot house. Other lots in the area are bigger than that. There's another example of a ¾ acre lot, and the applicant tried to put the biggest house possible on an incredibly constrained lot. The lots up there are small. We're not worried about maximum house size. In creating a line on the graph, he's trying to get at the likelihood versus comparing numbers. Comparing numbers doesn't help understand what's happening. We need to take into account that these areas are environmentally constrained. If we can do a comparison of the two proposals on a likely scenario, then it would allow us to make better decisions.

Commissioner Voelke said she's confused by why Commissioner Fender is proposing something he doesn't want to happen and saying is impossible. Her position is, you legislate for your worst-case scenario and assume it's not impossible. Commissioner Rosekrans has a lot of experience living in the Oakland Hills. All of those quaint houses burned down, and people rebuilt their homes to the maximum. The area is nothing like it used to be. She's persuaded by what existing neighborhoods are like. She can appreciate the clarity of Commissioner Fender's scientific thinking; however, it doesn't matter if you call it A or B. It's what you define to be in your system. It is what it is now, and people work with it.

Commissioner Fender said you don't see the inequities. Those are arbitrary lines that extend out to 5 acres, 7.5 acres, and 10 acres. There are no minimum lot sizes of 7.5 acres.

Vice Chair Hobson said this discussion is overly complicated in terms of what possibly needs to happen. Commissioner Fender's alternative proposal is trying to relate the maximum house size to lot size regardless of zone.

Commissioner Voelke said she understood that. She is adamantly opposed to increasing the maximum allowed house size for her area from 4,500 square feet to 6,000 square feet, and that's what Commissioner Fender's proposal does.

Vice Chair Hobson said that she has a 4 acre lot in the RR zone. She can build an 8,000 square foot house. Commissioner Voelke's neighbor has a 4 acre lot in the SCP-7.5 zone, and they can only build a 4,500 square foot house. How do you sell that inequity?

Commissioner Voelke said, due to steep slopes and its location in a forested area.

Commissioner Fender said we don't need to regulate it because the environment already constrains it.

Commissioner Voelke said that's your assumption, except you just cited two cases in which large houses were allowed to be built on very constrained lots.

Commissioner Fender said they're not at the maximum allowed house size.

Vice Chair Hobson said she feels it's unfair.

Commissioner Voelke said another reason is because in the SCP zones, there are not only constraints, but there are view corridors and forests to consider.

Vice Chair Hobson said, then it's not all about the numbers.

Commissioner Voelke said no.

Vice Chair Hobson said we haven't discussed that. We've talked about constraints that occur in the SCP zones. Her question is: how do these constraints, or do they even, limit house size? In some cases, they must limit house size.

Commissioner Voelke said they limit the building envelope. If you're allowed a 4,000 square foot house, maybe you have the amount of land to do it, but maybe you can't do it because you don't have a building envelope that would permit it because there is an earthquake fault nearby, steep slopes, recent landslide, etc. that would limit development. This discussion doesn't take into consideration all the other things we have talked about before. The General Plan states why there are specific designations.

Director Young said this was reviewed previously. In the WMC, the way that the SCP zones were developed was based on a specific list of constraints. Those include: unstable lands, Alquist-Priolo zones, low permeability soil, high ground water, steep slopes, fire hazard, noise, scenic corridors, and flood zones. This was how it was developed. The framers of the ordinance said that if a lot has one or two of those constraints, it's designated as SCP-5. If the lot has three constraints, it's SCP-7.5. If the lot has four or more constraints, it's SCP-10. That's one of the reasons we all drove through these areas during the summer recess. You may have noticed that the number of constraints increased as you go deeper into the SCP-10 zone. The land becomes more remote, more sloped, and more environmentally constrained. A basic planning premise is to decrease intensity of development within constrained and challenging areas. One reason is because fire response time is increased. Scenic corridors were considered when the WMC was developed. She agreed that there aren't many properties that are 7.5-10 acres. There are very few outliers on that side of the graph. She understood that was to control subdivision at that time; however, the other thing it does is shallow out that line. As that line becomes shallower, the intensity of development decreases. When Commissioner Fender asks what the relationship between the shallowness or the steepness of this line is, the answer is: as a lot becomes more constrained, that line becomes shallower because the intent was to have less potential development as lots become more constrained. She agreed that by saying this is a minimum 7.5- or 10-acre lot district, those are the vast outliers. It was to control the handful of lots they didn't want subdivided. It frustrates people because their lots are called "legal non-conforming," and they think that will affect potential development and the value of their homes.

Commissioner Voelke asked if "legal non-conforming" is an issue that comes up in the office.

Director Young said people do ask. They tend to be familiar with cookie-cutter lots. In Woodside, a property owner could completely rebuild a non-conforming structure as long as they do not increase the non-conformity of that structure. There are improvements that the Town Council wants to make, such as dealing with lots that are so constrained that the setbacks overlap. There is no potential building envelope. Should they really have to come to the Planning Commission? Those people probably have the most financial impacts, as the Variance process can be expensive.

Commissioner Voelke asked if people are generally satisfied after staff explains what legal non-conforming means.

Director Young said yes. Having a legal non-conforming lot doesn't mean they cannot build. The system is imperfect. The reason the line shallows out is just a basic planning premise. She knows it doesn't relate to math. With respect to areas that are more constrained, or up in the Western Hills that are more visible, that's one of the reasons they originally came up with scenic corridor regulations in order to control what could be seen from the valley floor. Also, the Residential Design Guidelines, adopted in 2000, was an outcome of the Ad Hoc Zoning Committee discussions.

Mr. Burow said he recollects the total floor area curves are all of the same for the SCP zones. Wouldn't that contradict Director Young's argument?

Commissioner Fender said they're not the same. People arbitrarily picked 5, 7.5, and 10 to end the lines at. They picked them because that's the minimum lot size, by regulation. There is no other reason. It's not good logic. It has nothing to do with the size or constraints of lots.

Director Young said the ultimate impact of it is it shallows out the line. She agreed that creating the SCP-10 zone really confuses people. Woodside is an Urban Wildland Interface community. There is a large area of Town that is in the high fire severity zone. Do you want to increase intensity of development in areas that are difficult to respond to from an emergency response standpoint? That was one of the questions discussed in the late 1990s.

Commissioner Fender said the likelihood of development increasing due to topography is impossible.

Commissioner Kutay said she appreciated the work Commissioner Fender has done. Keeping things simpler and fairer is better for Woodside residents. She supports his proposal.

Commissioner Voelke asked if Commissioner Kutay is worried that it would increase the maximum house size by 50% in a high-fire severity zone.

Commissioner Kutay asked if there will be such a large increase.

Commissioner Fender said the reason he brought it up is when somebody designed the maximum floor area charts, they followed the exact same logic. That is not right. He urged the Town Council to consider simplifying the total floor area calculations.

Commissioner Voelke said that her lot is 1.5 acres in the SCP-7.5 zone. Her maximum house size is her total floor area. Commissioner Fender's proposal would increase her total floor area if she's allowed a maximum residence size of 6,000 square feet from 4,500 square feet.

Commissioner Fender said no, her floor area is about 12,000 square feet. She would have to overlay the two curves.

Commissioner Voelke said that her maximum house size is 4,500 square feet.

Commissioner Fender asked if her lot is constrained, or would she be able to build another 2,000 square feet.

Commissioner Voelke said the question is not speculating whether she could. The question is whether we want to allow it, and she doesn't.

Commissioner Fender asked why we would regulate something that is taking care of itself.

Commissioner Voelke said because he cannot assure her that it will be taken care of.

Commissioner Fender said the Commission should ask staff to come up with a likely scenario that they think would happen, not a scenario they know is not going to happen.

Vice Chair Hobson asked how staff would figure that out.

Commissioner Fender said that is the challenge. He has some ideas.

Commissioner Voelke said that would require studying lot by lot.

Commissioner Fender said if we pass that comparison on, it's terribly biased and misleading. It's not even based in reality. The number would be huge.

Commissioner Voelke said she doesn't understand why Commissioner Fender wants to create a line not based on reality. If his line is improbable or almost impossible to achieve, then why would we have it. He's saying it's better to tell someone their maximum house is 6,600 square feet (when that's impossible) than it is to tell them it is 4,500 square feet when that is possible. It's equity in abstract, not in reality.

Commissioner Fender said this issue has come to us 20 years later, and we're not doing anything to change what was there 20 years ago. 20 years from now, the same thing will probably happen again. That's okay. This isn't an important issue to him. He's just trying to point out that we need to think differently about things if we are going to make changes.

Chair Huberty said the current and future demographics of Woodside consist of people with home offices and multi-generational families. Those are arguments of why houses need to have additional facilities to accommodate all of those uses. The idea of open floor plans tends to make the need for a house to be bigger because the central hall plan of the 1950's is passé. At the end of the day, the economics and need drive whether a house gets enlarged or not. He's not going to add 500 square feet onto his house just because he legally can. He would only do it if he had or needed to. People tend to develop for need rather than ability. There are homeowners in Town who could build large houses and haven't chosen to do so and probably would never choose to do so. Additions of wine cellars and gymnasiums are a few reasons why people want to build basements. That has not been a trend in the past and now is. He is in favor of having greater flexibility of homes getting bigger in Woodside. He is more inclined to go with the Town Council proposal that is a bit less ambitious. We can always go further. He was close to the East Bay fires, managing a real estate office there at the time. He saw many lot mergers after homes were burned down. The lots were originally substandard, and then suddenly, what was a 1/8 acre lot turned into a 3 or 4 acre lot so someone could build a mansion on it. They can be seen all over the East Bay Hills. Hopefully we never have a major fire in the Western Hills. Otherwise, we would see a lot of that insanity going on. People just took their insurance, sold their lot, and left. New people came in, bought multiple lots, and built a large house. That's a concern and the reason to keep the 7.5- and 10-acre lot minimums. He appreciated Commissioner Fender's work. It is okay to add a moderate amount to the size of homes as people might want or need them. We're not going to end up in the past "Mc Mansion" days.

Vice Chair Hobson asked if staff could estimate the number of times someone in the correct zone to build a 6,000 square foot house was told that due to site constraints, they could only build a 4,000 square foot house. She's wondering how often those constraints actually limit the size of the home.

Director Young said Commissioner Fender gave an example of an application we're currently processing. The project is in the SCP-7.5 zone where the total floor area and the maximum residence size lines are crossed. The proposal is to build a 2,860 square foot home, which is 9% of a ¾ acre lot. We've held a neighborhood meeting regarding that project, and the neighbors filled Independence Hall. A few neighbors attended the Town Council meeting last night, and spoke during the public comment period to dispute a component of the project (road width). Her point is that, typically, when a homeowner is developing from the ground up, or demolishing existing structures and building anew, they propose to the maximum. This particular project is difficult. It has gone to the ASRB several times trying to get the house to adequately step down the slope and be compatible with the neighborhood. She gave two other examples earlier in the Woodside Glens neighborhood. One on a flat lot that was 20,000 square feet, and one with the same size house further up the street on a much more constrained lot. The Town receives a real variety of applications. What the ASRB and the Planning Commission sees are only the projects that meet the threshold for Design Review. There are other projects that come in for Building Permits, which don't trigger Design Review.

Vice Chair Hobson asked how often an applicant is discouraged from designing the maximum during the review process.

Sage Schaan, Principal Planner, said it doesn't happen too often. Suppose there is a 6,000 square foot, two-story structure proposed on a 3 acre lot and a 3,000 square foot footprint. Even though the lot may be significantly constrained, siting 3,000 square feet is generally not too difficult. It may restrict them from further accessory structures. It's difficult to tell how often because most designers, architects, and engineers generally find a way to squeeze in the desired square footage. As Director Young has mentioned, when a lot is so constrained by regulatory standards, the only way to build is to get a Variance or a Setback Exception. There's not a physical constraint to construction because many different types of engineering methods could be employed. For this particular project, they will move forward with a proposal to go into the setbacks because there are no other options. If they are granted a Variance to encroach into the setbacks, they have somewhat opened the opportunity to have a maximum house size.

Commissioner Voelke said it's more expensive to build. They may need Variances to do it; however, generally people find a way.

Planner Schaan said in the last several years, most of the houses get close to the maximum. Most properties, given the current maximums, don't necessarily have the constraints that prohibit constructing the maximum.

Commissioner Voelke said another constraint is money. We don't live in an area where money is much of a constraint. If you can engineer it, you can build it. Maybe you won't be able to have a pool or a tennis court, or you have to have Natural State because of steep slopes. Projects will just cost more money. The projects with more issues come to the Planning Commission because they need a Variance. We do whatever we can to help people achieve it by slightly moving a structure or saving a certain tree.

Commissioner Fender said the problem is because there are smaller lots in these zones, people are trying to make those work on a ¾ acre. That's a small lot in a 7.5 acre zone. The trend is to try to put the biggest

house they can on a $\frac{3}{4}$ acre lot. The maximum house size would not do anything for that. It doesn't make a difference there. The lot won't take it.

Vice Chair Hobson said she's leaning towards the Town Council plan.

Commissioner Voelke said she is more comfortable with an incremental increase, and the Planning Commission has other issues to review in the near future. She likes the Town Council proposal with the triangle filled in, and without the additional 10% increase in maximum house size. The triangle is from the point at which any given lot reaches maximum house size, to the point at which it reaches maximum house with an Exception. There shouldn't be an exception process. It should just be granted.

Chair Huberty said there are two Commissioners that are for the Town Council proposal, and two that are for alternate proposal.

Commissioner Voelke said there are three Commissioners (if you count Commissioner Rosekrans, who is absent) for the Town Council proposal. It can be termed either way as one with the 10% increase, and one without.

Vice Chair Hobson asked for clarification about the triangle.

Commissioner Voelke said there's a wedge that is the green line. There is a wedge with a purple line, which is what came out of the Town Council with an increase of 10%. Her preference would be the green line. Is that right?

Mr. Brown said 10% over existing zoning.

Commissioner Voelke said a 10% increase would be 4,400 square feet. You came to the Town Council with 5,500 square feet.

Mr. Brown said it started with the Woodside Heights proposal for a 10% increase for Woodside Heights. At the time, we weren't even talking about extending it to other zones. He's talking about increasing maximum house size from 4,000 to 4,500 square feet and from 5,000 to 5,500 square feet.

Director Young said the Town Council proposal is the purple line. The current line flattens out at 4,000 square feet. At 1.5 x the minimum lot size, it jumps up to 5,000 square feet. One of the discussions was to go from the point, which is about $\frac{1}{2}$ acre where that line would connect up to 5,000 square feet. The Town Council raised the maximum residence size by 10%, so that would be 5,500 square feet. Commissioner Voelke is talking about the difference (i.e., wedge), between the green line and the purple line. The Town Council proposal is 10% across all zoning districts. For a 8,000 square foot maximum residence, it would be 8,800 square feet. For 6,000 square feet, it would be 6,600 square feet etc.

Commissioner Voelke said the original proposal was the green line. She is for the Town Council proposal. Her preference would be the green line.

Commissioner Hobson said the Commission is not passing a Resolution anyway.

Commissioner Kutay said this is a Study Session, so the Planning Commission is not voting tonight.

Director Young said staff would bring the Resolution for Planning Commission action to the next meeting on December 7, 2016. The Resolution is a recommendation to the Town Council. The current Resolution supports the Town Council proposal.

Commissioner Voelke said in the spirit of fairness, however the recommendation is sent to the Town Council, the majority vote is elevated, and the minority opinion is noted. That's appropriate.

Chair Huberty agreed. The Town Council will review the materials, and make their decision. It's not the Planning Commission's decision to make.

Director Young said the Planning Commission makes a recommendation to the Town Council on what they feel would be the appropriate WMC change.

Chair Huberty directed attention to the draft Resolution. There is Exhibit A and B.

Commissioner Kutay left the meeting at 8:04 PM.

Director Young noted a change to the finding that speaks to the Housing Element policy on Page 3 of 3 of Attachment 1. It states: *"The proposed Municipal Code changes allow for an increase to maximum residence size only in accordance with increased lot size; no increase to allowable total floor area is included. The code amendment would allow for the smallest residence size increases in the R-1 zone, and continues to maintain house size limitations in all zones."*

Commissioner Voelke asked where it states that there will not be an Exception process.

Director Young said in Exhibit A, Section E, Maximum Residence Size Exception, we have struck "Planning Commission" in the sentences, and that will be a part of the ASRB review. It wouldn't require review by the Planning Commission. We have kept the threshold size of the house.

Commissioner Voelke asked what threshold size of maximum residence is.

Director Young said the threshold is the existing maximum size. It also allows us to keep basement grading consistent.

Chair Huberty noted two typos. On Page 2 of the Resolution, Conservation Element Policy CV1.1, states: "The natural features of a site..". Another is after the chart, last page of Exhibit A, under paragraph F, R-1 residential Zone District, the third line says "for non conforming lots or for lots **greater than** 30,000 square feet."

Commissioner Voelke said the exception language doesn't make sense when it states: "An exception may be granted to the threshold size of main residence... for lots that are at least 150% of the minimum."

Director Young said you're right. That's existing language that needs to be updated.

2. Minutes of September 21, 2016 (Continued from the Meeting of November 2, 2016)

The Planning Commission continued the Minutes of September 21, 2016, due to a lack of quorum.

REPORTS:

a. Staff Communications

None.

b. Planning Commissioners Communications

Commissioner Fender asked about the procedure for addressing the accessory dwelling unit issue.

Director Young said it is a mandated State law that will go into effect on January 1, 2017. We will need to update the WMC on accessory living quarters (ALQ) to reflect State law. That item will come to the Planning Commission in the beginning of 2017.

Vice Chair Hobson asked if the WMC would be updated to only allow 1,200 square feet.

Director Young said the WMC becomes null and void on January 1, 2017, because it doesn't comply with State law. Woodside would default to the Assembly and Senate Bills as the regulatory structure. We would need to update the Use Chart and text. It's similar to what was done for the Wireless section. The State law limits ALQs to 1,200 square feet, and the intent is to make the unit more affordable.

Commissioner Voelke asked what we do with existing 1,500 square foot units.

Director Young said they would become legal non-conforming.

Town Attorney Savaree said that is their first interpretation of the law. We will get greater clarification as we dig deeper into it. There may be some clean up legislation at the State level because there is great confusion about conflicting language in these two Bills. No one anticipated that they would both be signed.

Commissioner Fender said there must be some way to make up for the difference between 1,200 square feet and 1,500 square feet. Regarding the processing timeline, how does staff propose the timelines are actually followed?

Director Young said we have the same mandate for wireless facilities now. We have a reminder alarm in the computer.

Commissioner Fender said so it's kind of a fast track.

Director Young said yes.

Town Attorney Savaree mentioned another item the Planning Commission will be seeing after the new year. It relates to marijuana and commercial cultivation. Proposition 64 passed, which now legalizes the personal use and commercial cultivation of marijuana. The Town Council passed an urgency ordinance indicating that while it is studied, commercial cultivation is not allowed in any zone in Woodside. At the end of January, the Town Council plans to hold the first Study Session to ask for community input on commercial cultivation in any zone in Woodside. Local entities will have the ability to limit zones in which people can cultivate, sell, etc.; however, we need to do that before the State begins issuing licenses. If there are no local regulations once the State starts issuing licenses, people can set up those businesses in any zone they wish unless it has been prohibited.

Commissioner Voelke said the urgency ordinance has stopped that right?

Town Attorney Savaree said correct. The urgency ordinance is in place until September 2017; although, the Town Council wants to act more quickly than that to figure out how they would like regulate commercial cultivation, or not.

Commissioner Fender said, so it is focused on commercial cultivation.

Town Attorney Savaree said another aspect of the urgency ordinance is outdoor plants. Under the State law, anybody can now grow up to six plants in an enclosed structure; however, the Town does have the ability to regulate outdoor growth during the urgency ordinance while they figure out whether or not that would be appropriate.

Chair Huberty adjourned the meeting at 8:18 p.m.