



City of Sebastopol
Incorporated 1902
Planning Department
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UNAPPROVED DRAFT MINUTES

TREE/DESIGN REVIEW BOARD
CITY OF SEBASTOPOL
MINUTES OF March 03, 2021
4:00 P.M.

The notice of the meeting was posted on December 30, 2021.

DESIGN REVIEW BOARD:

1. CALL TO ORDER: Chair Luthin called the meeting to order at 4:00 P.M. and read a procedural statement.

2. ROLL CALL:

Present:	Ted Luthin, Chair Lars Langberg, Vice Chair Marshall Balfe, Board Member Christine Level, Board Member Cary Bush, Board Member
Absent:	None.
Staff:	John Jay, Associate Planner

3. APPROVAL OF MINUTES:

August 18, 2021

Board Member Bush moved to approve the minutes as submitted.

Vice Chair Langberg seconded the motion.

AYES: Chair Luthin, Vice Chair Langberg, and Board Members Balfe, Bush, and Level
NOES: None
ABSTAIN: None
ABSENT: None.

4. PLANNING DEPARTMENT UPDATE ON MATTERS OF GENERAL INTEREST:

Associate Planner Jay advised the Board that consultants are doing surveys regarding local housing for the Housing Element. A Housing Element draft summary will be presented to the City Council in February 2022.

5. COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THE AGENDA: None.

6. STATEMENTS OF CONFLICTS OF INTEREST: None.

7. REGULAR AGENDA:

- A. 771-773 First Street Proposed Single-Family Dwelling with Detached Accessory Dwelling Unit** – The applicant and staff are asking the Design Review Board to provide direction on appropriate size of single-family dwelling that meets guidelines stated in Subdivision Resolution No. 5220.

Associate Planner Jay presented the staff report.

Chair Luthin asked for Board questions of staff.

Ted Luthin, Chair

The point of this meeting, to give some guidance on what Mitigation Measure #8 means and how it should be interpreted, correct?

John Jay, Associate Planner

That's correct.

The applicant gave a presentation and was available for questions.

The Board had no questions for the applicant.

Chair Luthin opened public comment.

Ken Jacobs, a member of the public

My name is Ken Jacobs, 7480 Hayden Avenue. I served for eight years on the Planning Commission and have an understanding of the challenge you face today. I think everyone here would agree that Condition of Approval #M8 leaves much to be desired in terms of its clarity. However, it's what we have and you, the Board, have the unenviable task of interpreting it. I suspect much of the discussion today will be legalistic, focusing on the meaning of terms such as "shall," "general area," "neighborhood," and "size." Despite all this, please, do not be distracted by all the legalize. You are not here as lawyers and judges, rather you are a citizens Commission with an expectation that you will utilize your experience, professional skills, and common sense in applying M8 to the proposed project. I would suggest rather than getting bogged down in debating the terms used in M8 you take a common sense approach instead. What exactly did the City Council intend when they adopted M8 as part of the subdivision back in 2001? It seems pretty clear the overall intention was that the houses built on that three-lot subdivision be of similar size to the neighboring houses. That's it. That's what it says. For example, the applicant has suggested that "general area" means the entire zip code including unincorporated West County. Applying common sense here, does anyone actually believe that was what the Council intended? Another example: the applicant suggests that parts of their proposed house that they have labeled as unconditioned space should not be counted in determining total square footage. According to the applicant not only should an internally connected two-car garage and a separate RV garage not be counted, but neither should a proposed workshop, a sewing room, five storage rooms, closets, a west mud room, an east mud room, and a roughly 600 square foot multipurpose room with a combined square footage of well over 2,000 square feet all under the same massive roof. Again, applying common sense here. Does anyone actually think this is what the Council intended? For the comparable houses staff has suggested a 600-foot radius, which I understand is based on the noticed

requirement for public hearings on land use issues in Sebastopol. This seems very reasonable in that it relies on an existing City ordinance that already defines what the City considered to be neighbors affected by development projects in town. This makes sense. Further, if you take a holistic approach to M8 it seems clear that the Council was looking at something akin to a neighborhood average. They did not say that the homes to be constructed on the subdivision shall not exceed the largest house in the neighborhood; rather they directed that the homes to be constructed on the subdivision shall not exceed those of similar homes in the general area. This is plural: homes. It all must be considered, or in other words, an average. I am fully in favor of the applicant being permitted to build their home. We have always known that a house would eventually be built on that lot and the others in the subdivision and we accept that. But, it is truly in our back yard and we have always assumed that whatever is built there would be of similar size to us and to our neighbors. This is what we were told back in 2001, this is what the Schoch family agreed to when they subdivided the lot, and this is what the City Council mandated for this property. Thank you for your time.

Daniel, a member of the public

According to the presentation we just saw it's not unusual to get larger and larger homes, so I would submit that by 2025, if I have the money, I can build a 10,000 square foot home on any place I want. That's my comment. Thank you.

Steven Wilson, a member of the public

I'm Steven Wilson. My wife and I live at 885 4th Street. We live in the basin of Calder Creek, which I like to call Calder Creek Natural Preserve and Watershed Area, which has never been mentioned. In comparison to homes that we've been shown pictures of I feel like I'm being shown a grid in a desert someplace. This house is this big; this house is this big. I think the point that everyone seems to miss, and I think in the subdivision done in 2001 what they and possibly earlier members of the Commission failed to recognize, is that we are in a watershed area, and this watershed area consumes a lot of water and downstream owners are affected by loss of watershed which is diverted into Calder Creek, which on my property has clearly been made into a drainage ditch rather than a friendly running creek. I have deep holes in my property that are 2-3 feet deep from the water that has been diverted from City streets or wherever. I lived at 666 Ellis Court off of Healdsburg; we bought the house in 1983. I also was in a winter creek watershed area and the City told me that once a culvert was put underneath my driveway everything would be fine, but from their lack of consulting a hydrologist and really finding out what would happen with the building behind us in the Garman project, which was 12 or 13 homes, and City streets and everything, I had deep gorges on my property down five and six feet and seven feet wide. I went to the City and said you said everything would be all right and if you put a culvert underneath my driveway it would be fine. Well, guess what? All my topsoil went downstream. I had to haul in two double loads of rock from Forestville or someplace and my son and I in a wheelbarrow just filled in. I know the people on Jewell Avenue are not really belonging to this area. I'm on the flat area practically, I'm almost on the creek, and as far as Swain Woods Terrace is concerned, they're not part of this watershed area. They can build what they want to build. I'm down below on the bottom where the water flows and I'm saying this is a very sensitive area. We have magnificent oak trees that are taking up this watershed. They're producing tremendous amounts of oxygen and they're diluting all this carbon dioxide in the air. It's a nature area; it's not just a grid area like a desert grid. It's a very, very special and sensitive area and I don't think the City has for the last 20 or 30 years acknowledged that. Even Trees Unlimited is speaking to the City right now and they are going to extend from Ives Park to Laguna an open Calder Creek so the public can enjoy it and have walking paths on it and everything. I have no idea what the City has done with this Calder Creek area. The only thing I know is I have tremendous holes because of loss of

watershed. I have no idea when this big monstrosity house is going to be built, and stealing of the watershed from this preserve area and what's going to happen to downstream owners, I don't know, but I really want to object to the size of this house being built in a very sensitive natural area, an ecological area in our city that I believe the City has failed to recognize for many years. That's my input concerning the watershed that the City has ignored for many years. Thank you.

Unidentified Female, a member of the public

This is a huge house. I would be like having a hotel in our neighborhood with only two guests. It just seems pretty ridiculous. Even at 4,000 square feet they would have a very large home. It's just that 6,000 square feet and up is so out of character for this neighborhood. It really doesn't belong here and I don't know why two people need that many square feet, but if they do maybe they should build it somewhere else. I don't really want to turn into a weird hotel neighborhood. Thank you.

Dale, a member of the public

I still object to comparing our neighborhood to Swain Woods. That seems like a very different neighborhood than Jewell Avenue and First Street. The nature of the homes is different; the sizes of the homes are different. I know it's not real far away, but it's just a different neighborhood, a different feel. I wish Steve and Rose could build their house in Swain Woods; it would maybe fit in better than what they're planning. I'm happy to have them as neighbors, but I really hope they can figure out how to build a house that's more in keeping with the sizes in our neighborhood right now. We live right at 814 Jewell Avenue, right behind maybe where the ADU would go.

Paul Olson, a member of the public

My name is Paul Olson; I live at 810 Jewell Avenue adjacent to the east side of the property that's proposed. I've already spoken at the last meeting regarding my concerns about the size of the property—I think that's been brought up several times—and the health and the ongoing safety of the heritage oak trees along the east side of the property as well. I feel that this property building this close to the root systems is going to damage them irreparably and cause them to be taken out at some point. My question is I understand that the City requires ADU units to be part of new construction and I would like to put the question out: are there any plans for the use? Is it for family, for guests? Is it going to be a rental or a VRBO? These are things that might concern the neighborhood. The last thing I want to say is that on page four of the staff report there was a paragraph regarding the visual impact of the property to the neighbors, and yes, we're definitely going to be looking down on it. It's going to be below our living area and we'd be looking at the roof; the size of it to be determined. Tree work was completed during the month of December along the Calder Creek side of the property, the west side, and several trees were taken down, some ground up, and now I have a complete view of three more neighbors' houses on First Street, both on the east and the west side of the street, that we've never seen before in 37 years that were shielded by trees and growth. I now look directly into the back of the house directly across from our property. I'm not sure when that tree work was authorized. I realize they took out some vegetation down towards the road in, but that's just a question I have now that tree work has been done and those trees are not going to come back. Thank you.

Dale, a member of the public

Does the ADU absolutely have to be built? I know the idea is to get more infill in the City but I wondered if there was any way to build it somewhere else, or not build it at all? I was just curious about that. It seems like the rest of the project is so overwhelming that it would be wonderful to at least not have that part.

John Jay, Associate Planner

In the resolution that was signed in 2001 there is a planning condition for Lot #3, which is the lot that we're here for tonight, that it is required to have an ADU on that lot. It's part of the original resolution that was signed. Unfortunately, that's what is in place.

Unidentified Female, a member of the public

What will the process be going forward, and will the Planning Commission votes have any accountability in terms of deciding on both the care of the trees on the property and the house size? Will this come before the Commission and the public again many times, and how will that happen?

John Jay, Associate Planner

The meeting tonight is going to be to determine what the appropriate path forward is for the applicant and staff as it relates to the house size and height in Mitigation Measure #8. Once that's determined there would be another public meeting that is in specific regard to the design of what's being proposed for that parcel, so this item will come again at a later time.

Unidentified Female, a member of the public

Are you saying that before this meeting ends tonight we'll know what size that house is going to be?

John Jay, Associate Planner

It's up to the Board to determine what that size or what they feel is appropriate is going to be.

Unidentified Female, a member of the public

And that's going to happen today? That's going to happen right now?

John Jay, Associate Planner

Correct.

Daniel, a member of the public

I think it was just mentioned that the reasoning is that this law was passed in 2001 to have that ADU on that property, is that correct?

John Jay, Associate Planner

Correct.

Daniel, a member of the public

I also wanted to comment that if that statute for the ADU, which was in 2001, applies without any recourse to this property then shouldn't M8, which was also I believe 2001, apply without any resource to this property? The size of the place, saying that it shall be consistent with the neighboring properties is consistent in 2001, I think from what has been said, then it should hold equal binding force with the ADU statute of 2001.

John Jay, Associate Planner

I am not sure. Larry, are you able to offer any advice on that?

Lawrence McLaughlin, City Manager

If I understand the question, perhaps this would be the answer. The condition M8 is a mandatory condition, meaning it shall apply to this project.

Chair Luthin asked for any additional public comments. Hearing none, Chair Luthin closed public comment.

Chair Luthin asked for Board questions.

Christine Level, Board Member

John, can you please explain the significance of the 650-foot radius?

John Jay, Associate Planner

The radius that was given there is the same radius that we use for any notice that goes out to the public in regard to a project that's being affected by those neighbors within that radius. For the general area in the Mitigation Measure #8, that was staff's determination as far as what that radius should be.

Ted Luthin, Chair

As a follow up to that, where does that 650 feet come from? Is that a state thing? Is that just a City thing?

John Jay, Associate Planner

It's within the City noticing ordinance.

Marshall Balfe, Board Member

Is there any language anywhere about the ADU having to be a separate structure? So many of them are built within existing structures, either lower or above. I'm thinking of alternatives to reduce the size down and so that to me is a very important question. Can it not be part of the main house and limited onsite?

John Jay, Associate Planner

The resolution for the planning condition does not specify whether it's to be detached or attached, from what I can read.

Marshall Balfe, Board Member

I do a lot of these ADUs and we squeeze them in anywhere we can, on downslopes or in the attics or whatever, and so that's good food for thought.

Lars Langberg, Vice Chair

I have a question for the applicant. I think it would be helpful to know, since we're talking about size and there's been some confusion according to the applicant or the staff report, what is the overall size of the proposed project, conditioned versus unconditioned space?

Gregory Beale, Applicant

Currently there is no proposed project. There was the project we submitted for the previous meeting until M8 came up. We've been working with Planning and going through everything to figure out what M8 implies for this site, and therefore there is currently no proposed project. The previously proposed project was, I believe, 4,500-and-change for the conditioned square footage.

Lars Langberg, Vice Chair

So we're meeting to talk about M8 for any project on these three lots?

Gregory Beale, Applicant

Correct.

Lars Langberg, Vice Chair

So we're now sort of erasing from our memory any project proposed for any of these three lots?

Gregory Beale, Applicant

Correct.

Lars Langberg, Vice Chair

And we're talking about M8 not just generally, but also we understand Lot #3 is going to have a project proposed and coming before us in the near future?

Gregory Beale, Applicant

Correct.

Ted Luthin, Chair

I think that is exactly what we're doing. We are here to determine the interpretation of M8 and the square footage associated with that condition.

Marshall Balfe, Board Member

I personally have a problem with trying to establish something for all three lots, since they're different sizes, unless we talk about percentages or FARs or some such thing, because the size for this project theoretically could be larger.

Ted Luthin, Chair

I think the other part of this particular subdivision is creek setbacks, existing trees, and those sorts of things that are limiting factors on the parcel, and that we've talked about before, also encumber it. I think there are going to be even more limiting factors on the other parcels: height limits, setbacks, driveways, those sorts of things are all going to slice into that.

Lars Langberg, Vice Chair

I have a further comment to my comment. Is it really our purview to talk about the appropriate size of a home on one of these lots, or is it from the wording in M8? We are to respond to a proposed project on one of these lots and is it appropriate or does it meet our Design Review Board standards?

Ted Luthin, Chair

That's a good question. Are we picking a number and that's the number and it just applies, or are we going to basically kick the can down the road and say bring a project and we'll respond? I guess we could do either one of those things.

Lars Langberg, Vice Chair

Maybe this is a question for Larry, but what is in the language? Is the language designed for us to respond to just any project that comes along and we think it should be within a certain square footage, or is it really language that should be tied to a specific project proposal?

Lawrence McLaughlin, City Manager

Ultimately it will be tied to a specific project proposal. That is the function of the Design Review Board. I don't regularly attend these meetings. As I understand, the nature of this particular meeting is it is intended to be helpful to the applicant to have a discussion of condition M8, to assist the applicant in not wasting the applicant's resources and attempting to craft a project that they hope comes within the Design Review Board's interpretation of M8 ultimately; they reserve resources, so that what they do will be useful. But ultimately,

as you said, it is to apply condition M8 and any other applicable conditions and City statutes, et cetera, to a specific project that will come to you in the future.

Christine Level, Board Member

I have a question of staff. The term "conditioned space" keeps being thrown about and I'd like to have a discussion about what that means. Of course, I know what that means, but if we're talking about the size of the homes and then we're going to say we're going to interpret that to only mean the conditioned space of the home, then that would imply that we could have a home with, say, 2,000 square feet with a 10,000 square foot garage and another 5,000 square feet of storage. What is meant by the square footage here that M8 interprets? What square footage are we talking about?

Lars Langberg, Vice Chair

It doesn't talk about square footage; it talks about size and height. I think if you're talking about size, it could include conditioned and unconditioned. Size means to me the whole building, the whole thing.

Christine Level, Board Member

That's what I'm asking, because this "conditioned space" term keeps getting thrown around and what I'm trying to say, and I'm asking John for the interpretation, is although I appreciate what you're saying, Lars, if we're just talking about conditioned space then we could have a 2,000 square foot home with a 10,000 square foot garage and another 5,000 square foot all within a bulk, and we're going to be getting a rather large size of bulk that would be substantially bigger than the average of the houses in the neighborhood, if I'm making sense here.

John Jay, Associate Planner

I would consider it as an overall footprint of the building, whether the conditioned space is within that unconditioned area. The overall exterior walls, whether they be conditioned or not, are still a footprint on the parcel and that those should be considered as that

Lawrence McLaughlin, City Manager

Christine, I concur with John on that.

Lars Langberg, Vice Chair

Here's a staff question. In their analysis related to this there was a 3,732 number thrown about as the maximum home built in the general area in the last 30 years. Based on what you just said, John, we can assume those numbers are footprints conditioned or unconditioned?

John Jay, Associate Planner

Correct. The data that we have available through GIS is the overall footprint of the parcel.

Gregory Beale, Applicant

I know this is the Board's time to speak amongst themselves, but I've obviously spent the last few months deep into this, and so I wanted to put a question to the Board, and there are actually a couple of comments that we had in our letter. In our previous submittal we took every overhang, every covered porch, eaves, everything, and included it in our numbers to account for everything, and there is zero data for what other existing homes have other than their conditioned square footage. The question I was hoping could be discussed is if we are deeming that it is overall every bit of space, whether it's conditioned or not, how do you make that comparison? Also, I know the 650-foot radius is used for notification, but I also would like to ask the Board to not just take that as a standard, because I don't think there's

any precedence to using that as a definitive line of what to compare or not to compare for a project. I just want to make sure that's part of the conversation. The other thing is that I found multiple inaccuracies in square footage and dates of original build in the GIS database; I just wanted to add those to the formula. Thank you.

Christine Level, Board Member

I don't actually have a conflict with 650 square feet. I do think that that's actually very relevant because we've got this approved planning document here and the M8, which we're trying to interpret, and if we were going to change that or allow for something different than that it would require notices. Wouldn't that be normal? It seems a reasonable number, because to make that change you would have to notice the people within 650 feet. Does that make sense, John?

John Jay, Associate Planner

Yes.

Christine Level, Board Member

The 650 feet seems very reasonable and logical to me. It makes a lot of sense to me.

Ted Luthin, Chair

Yes, me too. Maybe we can break this down a little bit, starting with that question. First of all, when the Board is looking at how is M8 determined: "Similar homes and most recent construction in the general area," how do we all feel about the 650-foot radius? Are we all in agreement that that is reasonable, or do some of us think that it is unreasonable? I'll throw my hat in the reasonable ring, because it sounds very reasonable to me.

Christine Level, Board Member

I've made my point. I feel that it's reasonable.

Ted Luthin, Chair

Marshall agrees?

Marshall Balfe, Board Member

Yes.

Ted Luthin, Chair

Lars, how are you feeling about the 650-foot radius?

Lars Langberg, Vice Chair

That makes sense to me.

Ted Luthin, Chair

Gregory, do you have something to chime in on?

Gregory Beale, Applicant

That actually amends M8, which is not the intent. I'd like to ask Larry this question, because general area equals 650-foot radius and I'm not sure where it says that. Is there is a precedence or standard that has already taken place in the City of Sebastopol elsewhere that gives relevance to that?

Lawrence McLaughlin, City Manager

I obviously haven't studied what's happened elsewhere, but I will say that generally the noticing requirement is intended to give notice to the neighborhood that is affected, so

affected neighborhood works both ways. It makes reasonable sense to me that if you're looking at a general area and trying to interpret what was meant in 2001 by the words "general area," you're looking at the affected neighborhood both ways. To me that signals what was in the intent at the time that this was written. A very relevant and reasonable way to interpret M8 is within that particular radius, so I do agree with staff's analysis of that.

Ted Luthin, Chair

I also think that falls right into the language of M8, including both the First Street area and the Swain Woods neighborhood and then Jewell near Hayden, so it really gave a sub-segment of the Swain Woods neighborhood as the general area and all that falls within that 650-foot radius. I think that all points to that general area as being the general area in M8.

Cary Bush, Board Member

I find it reasonable. I think it was well noted right there. It's been established as an area for the general neighborhood, so therefore I think it seems suitable.

Ted Luthin, Chair

I think it was Ken Jacobs that mentioned earlier that we have to think about what was the original intent when M8 was written, and I think the intent was we've got a subdivision here, we want these houses to fit in with the neighborhood houses, and I think that all makes sense to me. I think the next issue is what does size mean?

Gregory Beale, Applicant

Tina Wallis is part of our group here. Is it possible for her to add to this, please?

Ted Luthin, Chair

Yes. Tina, do you have something to share?

Tina Wallis, Attorney at Law

Yes, thank you. I wanted to go back to the plain language of M8, because the plain language references a general area and then it identifies two sub-areas. It speaks of the general area including both the First Street area and the Swain Woods neighborhood, Jewell near Hayden, so M8 did not contemplate arbitrarily adding the 650-foot radius or circumference because it excludes the larger general area and only captures two of the exemplar sub-areas. Also, there are jurisdictions that have extended their notice requirements out to 3,000 feet in the past couple of years, so Sebastopol may be using 650 feet but other jurisdictions are going much, much larger. I would ask you to look at the plain language of M8 and take that language on its face, which is any principle of statutory interpretation, and consider that the general area was intended to be much larger than the two exemplar sub-areas.

Ted Luthin, Chair

Thank you for that.

Christine Level, Board Member

It's looking like we're going to be having a back and forth conversation with the applicant, which I don't think is appropriate to this phase of our discussion, but what I would like to do is make a motion to adopt the 650 feet as part of our discussions.

Marshall Balfe, Board Member

I'll second it.

Ted Luthin, Chair

We have a motion and a second to adopt 650 feet as the reasonable boundary of M8. Any additional discussion on this?

Cary Bush, Board Member

I'm having a hard time accepting that as a fulfilling notion and motion here to make this a concrete item to this discussion without the full scope of what we're trying to discuss here. Is this the notion for M8 right here, to adopt 650 feet? There's clearly an area that we're talking about, there's a size that we're talking about, so maybe we make our motions at the end of this discussion versus at the current moment.

Ted Luthin, Chair

A question for Larry. Is our end product today a motion or set of motions that are approved, or is our end product today basically encapsulated in verbal direction to future applicants on these properties?

Lawrence McLaughlin, City Manager

Bear in mind I haven't been regularly attending DRB meetings, however, as I mentioned earlier I think the intent today is that you're giving the applicant such guidance as the Board can give to assist the applicant in structuring a project that will ultimately meet this Board's interpretation of what M8 requires. You're trying to assist the applicant in that regard. You are not making a final decision in any way on a project. To give assistance I think what you should do today is develop a Board consensus over how M8 is interpreted and give the substance of that consensus to the applicant in sufficient detail that the applicant will be assisted, assuming they wish to do so, in structuring a project that would meet that interpretation that this Board is making. This is not a final decision on a project, so I don't think it matters as much what structure you use to try to develop a consensus, whether that's by motions, or a series of motions, or just developing a consensus, or you could even do it by an elaborate discussion and you can sense the consensus from the comments of individual Board members. Anything will work at this stage where you're trying to give assistance to the applicant, but I would say try to develop a consensus around an interpretation of M8. It seem rather clear to me that the Board believes that this 650-foot radius is what was meant by the general area referenced within that condition. If you develop a consensus around that you could do it by motion, or you could do it simply by a show of hands, and any other element of M8 that you want to discuss in a similar manner. I hope this is helpful. I'm trying to stress that you're not making a final decision on a project; you are trying to give guidance for future review.

Christine Level, Board Member

Larry, I believe that since this M8 applies to all three lots that our guidance that we're giving today on M8 would apply generally to all three lots, for example, the 650-foot radius.

Lawrence McLaughlin, City Manager

I would agree with that.

Christine Level, Board Member

What I'm trying to do here is establish a limit for the general area that we're discussing. We can establish that limit and move forward with the rest of our discussion. Not limiting the rest of our discussion, but if we don't come up with an area limit that we're discussing the average size house of, then we're not going to get anywhere and we'll be here all day, and that is why I'm proposing a motion to limit it to the 650-foot radius, which seems reasonable and makes sense from a planning point of view with the current planning standards of the City of Sebastopol.

Ted Luthin, Chair

I'm okay with proceeding either with motions or just with general agreement that a 650-foot radius is fair and reasonable. Do we need to put a hard cap on it at 650 feet or can we all agree a 650-foot radius is fair and reasonable?

Cary Bush, Board Member

I think we have established that, Ted. It's my understanding as a general consensus that it's been acceptable. To actually make a motion and vote on it didn't seem appropriate at the time.

Ted Luthin, Chair

I'm not sure I'm feeling the need to be that hard and fast with that, and I think the same is going to be true of my feelings about size and height, because I think the three issues are: What is the area for comparison? What is a reasonable size, or how is reasonable size determined? What about a reasonable height? It seems like those are the three issues to me. Christine, are you satisfied if we just go on record as saying we all agree that a 650-foot radius is fair and reasonable, or do you want something harder and faster than that?

Christine Level, Board Member

I would like to see it as a motion, because otherwise we're just leaving it vague. It could be appealed, anybody could continue to argue about it, and comments are just comments with no basis behind them; there's no firm decision. If we're going to get to the bottom of this and resolve this problem we need to start making some decisions, and one decision that I'm making a motion of is that the limit for the area is a 650-foot radius. Otherwise, what's to keep somebody from coming back later and saying I don't like that and argue with us again all day long about a 3,000-foot radius or 5-mile radius? That's my thinking behind this.

Board Member Level moved to establish a limit for the general area to the 650-foot radius as a fair and reasonable limit for comparison.

Ted Luthin, Chair

We do have a motion on the table and we have a second on that motion. If there's further discussion, let's keep talking about it, and if not, let's call the question.

Lars Langberg, Vice Chair

Larry made a good point, that this is sort of an advisory moment, so whether we give it a motion or it's a consensus I think it will have the same weight.

Marshall Balfe, Board Member

I think we should just let it be not something we vote on but I think it's clear to the applicant how we feel about it.

Ted Luthin, Chair

We have a motion on the table and it has been seconded. Christine, do you want to proceed with the motion? If so, I will call the question.

Christine Level, Board Member

Yes, let's proceed.

Chair Luthin called the question.

AYES: Chair Luthin, Vice Chair Langberg, and Board Members Balfe, and Level
NOES: Board Member Bush
ABSTAIN: None
ABSENT: None.

Ted Luthin, Chair

We have one nay in Cary. The motion carries. Six hundred and fifty feet is the directed fair and reasonable radius. Let's move on to height. It says, "...shall not exceed size and height of the homes to be constructed within the subdivision." Are there any thoughts on interpretation of height? My knee-jerk reaction is to accept the City's height limits as the maximum height and call it a day. Is there any reason to further limit height on the subdivision?

Christine Level, Board Member

I agree with you, Ted.

Lars Langberg, Vice Chair

That's part of the zoning code, so that would apply regardless, but size and height as far as I can see in this language is related to similar homes in the neighborhood, so it's an interpretation by the applicant to say if they go to the max height allowed by zoning, but actually it may need to be lower because it could stick out and be too big, so to say height is only about what's in the zoning code is not enough. It's like its character of a place, in a way, and how it fits into a parcel.

Ted Luthin, Chair

In this neighborhood I see very tall houses, single-story homes, and a broad range of things. I'd feel more strongly about wanting to limit it if I saw uniformly single-story homes in this neighborhood, but we have two-story homes on downslopes that create fairly tall buildings that probably are pushing the City's height limit. Are there any more thoughts on height relative to the similar homes in the general area?

Christine Level, Board Member

Do we have any data on the heights of the homes? We have square footages, but I didn't see any information on heights.

Cary Bush, Board Member

I don't see any either.

John Jay, Associate Planner

No, I don't have anything. The GIS data that we use for the size does not include building height.

Ted Luthin, Chair

Just looking at that neighborhood, I'm having trouble coming up with a compelling reason to limit height to anything less than what is allowed, but does anyone see something that I'm not?

Lars Langberg, Vice Chair

I'll just echo what I said. I don't think we have to establish a lower height limit than what's allowed by zoning. Determining the height of a building on a sloping site is already a tricky exercise, and to make it a good building that minimizes grading and deals with drainage, et cetera, there is an appropriate height range of a building. I don't think we have to do more than what the zoning allows. We could say the size discussion includes the height. It's the

bulk, it's the size, it's the footprint, and it's the appropriate scale of the building on the parcel.

Ted Luthin, Chair

Can we all generally agree in terms of just pure height of a building that the zoning standards are adequate and we don't feel compelled to impose anything more restrictive than that? Cary is nodding.

Marshall Balfe, Board Member

I agree with that.

Ted Luthin, Chair

Marshall sounds like agreement. Christine, are you in agreement with that?

Christine Level, Board Member

Yes, I am.

Ted Luthin, Chair

Then there's this idea of whether size includes conditioned air space or unconditioned air space. What we don't want is what we had with the previous application where there is manipulation of those numbers to get a larger footprint by calling things unconditioned air space. I'm in agreement with a lot of staff's recommendations that unconditioned air space needs to be included when we're considering the size of a proposed home. It does say homes, not home, in terms of the M8 language, so I think taking some sort of an average makes sense to me. "The size and height of the homes to be constructed within the City. Not exceed similar *homes* of the most recent construction in the general area." To me, that speaks to an average, it speaks to taking not necessarily just the biggest house, unless they were all similarly large size, but we've got a whole smattering of things from pretty modest size homes to good size homes.

Lars Langberg, Vice Chair

Where are you reading that? Has the City cataloged every house in a 650-foot radius and that's what we're going on? We should be clear on that. What are we comparing it to?

Ted Luthin, Chair

I'm looking at the staff report, page 3, top first paragraph. "Homes constructed from 1990 to present best capture the recent construction. Largest home is 3,700 square feet, smallest is 1,300, average of 2,440 square feet."

Cary Bush, Board Member

Page 6 of the analysis from our prior report also compared the square footage of the common size home with similar homes with a calculation that staff had made recommendations for the Board not to go beyond 150% of 3,000 square feet; that's the upper end of the range of sizes in the area. There was somewhere between 125-150% of the average or upper end of the surrounding homes, so that was applied to the prior application. That's a guideline that I've been looking at for some time, dating back to these old documents. Again, staff analysis here.

Lars Langberg, Vice Chair

If the average is 2,440 and the largest is 3,732, what you're saying, Cary, is that's kind of like the staff is being generous on the upper end of this range.

Cary Bush, Board Member

Correct.

Ted Luthin, Chair

If you take 150% of the 2,400 you end up with 3,600 square feet.

Christine Level, Board Member

I'd like to comment on this briefly. The M8 kind of implied the average of the similar homes, but where did the 125% and 150% come from in your relationship to M8? That doesn't seem to have any basis anywhere.

Lars Langberg, Vice Chair

M8 is not very clear, and so it seems to me that staff is doing a pretty good job of analysis and trying to give some guidance to the Board, like here's where what seems like a good size.

Cary Bush, Board Member

Exactly.

Christine Level, Board Member

Where did those numbers come from? This is a question for John, I guess. Where did those averages come from? They seem to have disappeared from the current staff report, or have they?

Lars Langberg, Vice Chair

The average is still there, 2,440 square feet.

Christine Level, Board Member

But where did those 125% and 150% numbers come from besides the fact that the staff put them in there? What is the reasoning behind that number? This is a question for John.

John Jay, Associate Planner

Jeff Setterlund, who was a consultant working with Director Svanstrom, originally stated this problem. That is what their determination was as far as a percentage that felt appropriate and met the language in M8. The additional analysis is going off of that report that was already done prior to this meeting.

Christine Level, Board Member

So, they just decided themselves that this would be an appropriate number? Is that what you're saying?

John Jay, Associate Planner

Correct. From my understanding that's what they based that percentage, 125% or 150%, number off of.

Christine Level, Board Member

I'm struggling a little bit with this "felt appropriate" language. What is that based on, just their feeling?

John Jay, Associate Planner

I don't know, because I was not part of that conversation before. That was before I was brought on to the City so I don't know the full detail as to how those numbers were determined.

Christine Level, Board Member

Because what I'm looking for is some kind of precedent or something based on what we did over here or based on the knowledge. It looks like we can't get that question answered at this moment because the individuals involved are not available.

John Jay, Associate Planner

Correct. Larry's got his hand up. Can Larry comment on this?

Lawrence McLaughlin, City Manager

I want to point out that with respect to size and height it uses the words, "shall not exceed," so to me shall not exceed points the Board toward the largest square footage figure within that footage range that you've already talked about, and then sets it at the highest limit. Shall not exceed means it can go to the highest limit, but should not go above it. So, if you're looking at a square footage that's the "largest," that sets the ceiling. I think that should be the interpretation of M8, in my opinion.

Christine Level, Board Member

I have a kind of a nuanced question about that, Larry, which may or may not be relevant. It's using not the largest home but homes. Is that relevant, because the largest homes would encapsulate smaller homes and the largest home?

Lawrence McLaughlin, City Manager

That makes it a bit difficult I have to admit. I suppose if you wanted to really stretch an analysis you could start counting homes within the footage area and average what the largest one was, but I still think it's a reasonable interpretation to go to the largest square footage because of the specific use of "shall not exceed."

Lars Langberg, Vice Chair

I would agree with that, Larry. We also have an average, so I go back to it's up to the applicant to take these numbers and come up with the appropriate design for the site, and we could almost say it's from the average to the highest and that's their range. That would be one way to interpret it.

Ted Luthin, Chair

Personally I don't think I would have a problem with that. I don't know that we need to set a lower limit on it. If they want a smaller home they certainly can do that. I think it's like Larry said, we need to establish that upper limit, and I don't think the upper limit should be the average, because there are a lot of very modest size homes in there and they were probably built fairly early. I'm guessing probably what Jeff Setterlund was getting at with his 150% was making that number come out somewhere toward the higher end of the houses in the neighborhood. Am I concerned about one of these houses being one of the larger houses in the neighborhood? It doesn't seem like that was the intent of M8, to say that it should be smaller than the largest home. It seems like the intent of M8 was that it should fit into the neighborhood, and if a 3,700 square foot house fits into the neighborhood because there's one already there it seems like a 3,600 square foot could fit into the neighborhood again, so it seems like that fits the spirit of what M8 was after.

John Jay, Associate Planner

I see Greg has his hand up.

Ted Luthin, Chair

Go ahead. Do you have something relevant to what exactly we're talking about?

Gregory Beale, Applicant

It was maybe more relevant to a little bit earlier regarding the data of Planning's report in comparing square footage, and also John's previous comment about size that he gleaned off of the GIS. That is all conditioned square footage. This had more to do with the conditioned/unconditioned question. There is no available data for house heights, house unconditioned square footage, and what is counted for that. Is it seven feet and below and no concrete floor? Is it under an eave or a covered porch? Is it a detached garage? Is it a six-car garage? There's no data for that and there's also no definition for it either.

Ted Luthin, Chair

Back to size, we've got an average of 2,440 and we've got the largest house is 3,732. What are we thinking? Go ahead, Lars.

Lars Langberg, Vice Chair

I think Gregory's point is a good one, that if we give this guideline of not to exceed 3,732, what does that actually mean if we don't know? Does it include a garage or not? Does it include a workshop underneath or not? I don't know that we can get to that data point. Can we give a guideline of this is what's on record that the staff has given us? We also know there are setbacks, we know there are trees, there is common sense design, there are other actors we can put forward, but if an applicant comes back with a 3,700 square foot house attached to a two-car garage, is that good, bad, too big? Can we talk about that now or not?

Ted Luthin, Chair

John, to clarify, the largest on the 3,732, that does not include things like garages?

John Jay, Associate Planner

From the data that I was able to pull, and that's within that picture on page three of the staff report, those parcels that are outlined in blue are the 18 that were taken. That was the recent construction of 1990 to present. The largest home within those subject parcels was 3,732 square feet but the data that we're able to see does not say if that includes a garage, workspaces, or anything like that. It just says what the County has recorded as square footage residence.

Christine Level, Board Member

I'm going to go back to this language one more time, and then I want to talk about what's included in the home. Again, it says. "The size of the home to be constructed in this subdivision shall not exceed those of similar *homes* of more recent construction in the general area." So, we have this outlier at 3,732, but that's not generally applicable to the rest of the homes in that area, so I think that using that number is not within the intent of this language at all. I think we would have to include more—maybe higher than the average—homes in the plural to be used in this number, because it's clearly an outlier. Second, when we're talking about the home, I think the home itself is the bulk structure. You can see the slippery slope you're going to go down if you're just going to say I'm going to condition this part of the bulk structure and I'm not going to condition the rest of this part of the bulk structure, and therefore my bulk structure is now twice as big as the determined number, because I'm not calling it conditioned space. I think that the home itself must include the entire bulk of that building.

Ted Luthin, Chair

I agree. I think it's best if we include the entire bulk of the building in whatever guidance we give, or conversely we could include some maximum allowance for square footage that is outside of the maximum, we could say that too. We could say a three-car garage is 600

square feet, so in addition to the maximum you could have up to 600 square feet of unconditioned air space or whatever you want to call it.

Cary Bush, Board Member

What do other municipalities do? Are we reinventing the wheel? What's common sense? Seriously, if you apply for a home, you build a home, do you build unconditioned space or do you build conditioned space? What are we talking about? I understand the undertones to much of what this discussion is about, but the bottom line is why are we writing this, why are we voting on this measure inventing a new wheel? It doesn't seem appropriate. It goes beyond a field of purview of these guidelines. I know we're trying to give direction and we're trying to provide consensus, but let's be realistic. If we build a home for a client, we build in conditioned space or unconditioned space. What do we put down on our application to the County, to the City? We ultimately will be here as a Design Review Board to judge the common sense of a project. It can be within a max cap of 3,700 square feet. You can't build a home bigger than that. They do and they have a 20,000 square foot garage attached to that, and we know it's not common sense, so therefore does it go before the Board? Sure. But does the Board approve it? We don't know. We just need to be realistic about what we're talking about in this language. What do other municipalities require? I'm not an architect, so I don't know when I'm applying for a building permit if I'm putting down conditioned space versus unconditioned space and such, I don't know. Tell me, Lars. Maybe I'm off bases here.

Lars Langberg, Vice Chair

You put down everything. You can put down the garage, you can put down a deck, or a covered deck, because whatever is built has evaluation and then a permit fee gets associated with it, so it's all recorded, but that's a building permit level, not a planning, zoning, bulk kind of site level; those are two very different things.

Cary Bush, Board Member

So, again, reading back to a staff analysis that's been given to us, this is what I go on every time I get a report from the staff. I'm looking at percentages and generally I'm looking at that staff report with some real meat and bones behind it, not second-guessing what it is. It's about what's recommended and what's not recommended. This is their job; this is not my job.

Lars Langberg, Vice Chair

I think that's a good point. The term "common sense" to me is what's so important and was brought up by Ken Jacobs at the beginning in public comments, and that includes wise use of resources and energy efficiency. To me, if somebody comes in with a 6,000 square foot house in this day and age for two people, it's not an appropriate development, and the trees on this site are a big deal. How do you work around those trees, and how do you deal with the slope and the off haul, a balanced grading approach? All of that is up to the applicant to come forward with a really good project and us to judge it, and I think there's enough good analysis from the staff, as Cary just said, and zoning requirements, that a good appropriate development could be done for this site. For us to give it a square footage number is not necessarily in the spirit of what we want to do.

Cary Bush, Board Member

Thank you, Lars.

Marshall Balfe, Board Member

Also, I think we have to be clear about if an ADU is attached, for example. Obviously we'd count that as separate square footage even though it's attached. There needs to be some clarity about that so that people don't just wander around wondering what to do.

Ted Luthin, Chair

I think the ADU square footage, whether it's attached or detached, would be counted as separate from the maximum size of the house.

Lars Langberg, Vice Chair

It's separate square footage, but to Christine's point, if it's attached it is bulk of the building, so you look at it differently. If it's separate it's going to have a very different character on the site.

Christine Level, Board Member

Going back to the square footage thing, I think our hand is kind of forced to put some sort of square footage number associated with this M8 to determine what is meant by "shall not exceed those of similar homes," is it not? How do we get around that if we don't start attaching some real numbers to it? Don't we end up in the same situation?

Cary Bush, Board Member

It's why we're here tonight. They tried to do that to us in the last meeting with our applicant and we didn't quite know how to do that, so we're here to do that apparently tonight. My comment in the last meeting was what more information are we given to make these valuations realistic, and we're given similar information. That's why I went back to my initial staff-calculated square footage, between 125% and 150% on high-end or a high-end average. Does this Board really want to give that recommendation tonight?

Christine Level, Board Member

If I understand you correctly though, Cary, are we talking about that 150% of the largest number? The house can be 150% bigger than 3,732 square footage? I would say that that definitely goes against the intent of M8 entirely with the high-end average.

Cary Bush, Board Member

I would agree with you, Christine.

Lars Langberg, Vice Chair

I thought it was 150% of the average.

Christine Level, Board Member

Maybe one of these numbers or these percentages is attached to some part of an average, not a high-end. Interestingly enough, if you attach the 150% to the average you get approximately 3,600 square feet.

Cary Bush, Board Member

That's what I got as well. Where I'm really trying to get to right there is are we just going to say 150% on the average? That's 3,660 square feet I believe it was.

Christine Level, Board Member

But that still begs the question of where the 150% came from. We don't know because it was somebody's feeling that that would be good, but we don't have those people here to ask if there's any basis for that besides just somebody's feeling.

Lars Langberg, Vice Chair

But if we look at like what Larry said about M8, we could say that it's not to exceed 3,732.

Cary Bush, Board Member

In addition, it also said that it's understanding is that these homes could add an addition at any time and also increase over time. But again, that would also probably go before Planning, staff, and such, so there are alterations to that. Again, it would need to meet another sense of approval.

Christine Level, Board Member

I think I'm still getting back to the general spirit of M8, and I think that the general spirit and intent of M8 is to keep everything the same size and the same look, so I would be looking at maybe more like 125% of the average increase. That gets us at the high end of the homes in that neighborhood without the outlier, which I think is reasonable.

Marshall Balfe, Board Member

I like what you're saying; I agree with that. But also the extra things like garage and workshops and so fourth, that could be a technical design review, couldn't it, or not?

Ted Luthin, Chair

It could be.

Christine Level, Board Member

Another discussion we need to have is what is included in this number? Let's look at the neighborhood here, for example. In this neighborhood do we have three-car garages? Do we have detached or attached garages? I don't know the answer. I suspect we do not have three-car garages. A three-car garage is a look; it's a feeling. You get to a four-car garage. I'm trying to establish the intent of this M8, which is to keep the neighborhood in its character. If I had a 3,000 square foot house or a 2,000 square foot house and a five-car garage I do not think that that would be characteristic of the neighborhood by any stretch of the imagination. I think a two-car garage, 22x24-ish, is more of an average, the sort of thing that might be attached to a house. But I don't know the neighborhood well enough to know if this is normal. I would say that this is probably certainly not exceeded in this neighborhood anywhere.

Ted Luthin, Chair

There are a couple three-car garages in that neighborhood. Up at the top of First Street there's a private street that takes off to the west after you go around the bend that's got four or five fairly new homes on it, and there's one good size home right on First Street right around the bend that has a three-car garage.

Christine Level, Board Member

And that's in the 650-foot limit, Ted?

Ted Luthin, Chair

Yes, on First Street it's the bottom left four parcels. Those are all bigger homes. I'm guessing our outlier home is the lowest left. Those are all fairly new construction and I think you've got a mixture of two- and three-car garages. But yes, I think a three-car garage is definitely an unusual thing in the neighborhood, but not unheard of and they do exist.

Christine Level, Board Member

So, again, it would be the outlier. I guess where I'm going is similar homes. We could mince this down and be here until midnight, but if you have similar homes I would ask myself the question: In order to determine what would be normal, how many homes are we talking

about in this 650-foot radius and, again, what are the garages? What's typical, not what's an outlier?

Ted Luthin, Chair

For that reason, if you took your 125% and that got you to 3,100 square feet, and you said a shop and a garage could be another 500 square feet, now you're at the 3,600 square foot mark again.

Christine Level, Board Member

Unfortunately, I don't know what these numbers that we have on the chart with the square footages include. I have a question for John. If you have an attached garage, do those numbers include the attached garage?

John Jay, Associate Planner

We don't know. I can't say for sure whether it does or does not include that number within the square footage that's given from the GIS parcel tool.

Gregory Beale, Applicant

I can tell you with 100% certainty that it is conditioned square footage that is listed on GIS. I've verified multiple homes and that is how everything, real estate, everything, is referred to conditioned square footage 100% of the time.

Ted Luthin, Chair

My feeling is I'd be happy to take the 150% of the average, or cap it at 3,700 square feet and just say it can be similar to the largest home. I don't think that would be unreasonable. I don't see going in excess of largest homes. I don't think that meets the intent of M8. I think M8 certainly wasn't going there, it was intending for it to fit in somehow. In my opinion, being on the larger size seems to fit that intent. If anything, we would want to err on the generous side.

Christine Level, Board Member

Where does that throw in lots of square footage of storage, workshop, all attached, et cetera, where you could substantially increase that number with all this other "unconditioned" stuff? I'm leaving the garage separate from this, by the way, but these other types of rooms are just going to increase the bulk. Normally, when you're looking at your house you've got your bulk of your house and your garage.

Ted Luthin, Chair

Ideally, I think we'd pick a number that was all-inclusive and just say total square footage. Inclusive of garages, shops, unconditioned air space and not be ambiguous.

Lars Langberg, Vice Chair

But we can't do that with the data we have. Thirty seven hundred is a number we've been given, but Gregory has chimed in that that would be 3,700 conditioned space. We could then do another survey that finds in this 650-foot radius the garages are X, or typically the average of unconditioned space is 500 or 200 or 10,000 or whatever. We don't have that data though.

Lawrence McLaughlin, City Manager

I agree. I don't think you have the data tonight to figure out an exact square footage, because you need to compare apples to apples and you don't know what the apples are of the structures that were averaged out at 3,732 square feet. Do they include garages, workspaces, et cetera? You need to compare apples to apples, but you don't necessarily

need to do that work. You can tell the applicant how you're going to interpret it and ask them to do the analysis and bring you the data back to justify whatever project they bring you in the future to show you that it meets that criteria.

Lars Langberg, Vice Chair

The applicant has done a lot of research, as we saw, in looking at all the different photos. It seems like it wouldn't be that much extra work to limit the area and put them in a spreadsheet or whatever, unless it's knocking on people's doors or looking up old drawings if it's not what's on the GIS.

Christine Level, Board Member

I'd like to go back to the M8 one more time. We're talking about the size of the homes, not the conditioned square footage of the homes, and I can see that the intent of this is not to have really large buildings, so I could see a situation where you had a building size total bulk and you might have additional structures for these other uses, such as a workshop, or maybe you have your size and you've got the garage that is attached. You're reducing the monolith that you're creating by limiting the size, not the conditioned square footage. That's what it says there. That's an important consideration when you get back to the intent of M8, which is to keep the neighborhood in its character. I think that's the intent here: size, bulk, and monolith.

Gregory Beale, Applicant

Short of knocking on doors, where is this information available? I've never seen, except for maybe confidential tax records, additional information about the size of a home that is anything other than the conditioned square footage. We're not trying to push and create boundaries to make a Greek temple here. The problem and the confusion before is that size was a big question in the previous meeting, and I don't know any other way to do research or define it other than per GIS database where everything size means conditioned square footage. I want to make really clear that when we submitted the last plan we were not even aware of M8, so we weren't trying to trick anyone with what was conditioned or unconditioned. I don't know another way to define size and I don't know another way to get data on it to compare that doesn't involve getting out tape measures and going to all homes, which is obviously not an option.

Marshall Balfe, Board Member

M8 talks about homes in the last 20-30 years. When projects are submitted to Planning you go through that exercise and conditioned and unconditioned spaces and covered porches and so on. They have a rule for how they're going to interpret your submittal, so can that information not be gotten from the Planning Department since these homes that we're concerned with are all in the last 20-30 years?

John Jay, Associate Planner

On building permits it's done through the Building Department, so we would have to work with the Building Department to pull the permit applications for each of those homes to see what that number is for each specific home.

Gregory Beale, Applicant

I have submitted many plans and built off of many others' plans, and my father was a land use planner for 30 years, so I've been around this for a long time. How somebody submitted a set of plans determines what to count and not to count, especially outside of conditioned space, which is where the main, critical focus is when it comes to fees and size and all those different things, if very inconsistent. I want to reiterate, we realize we made mistakes by blowing everybody's tops off in our previous projections, but we included everything, eaves

and deck and porch and everything, and that's typically not the case for building construction permits, but we took everything as far and literally and specific as possible. There's a lot of inconsistency in that data, even if you can find it, if it's even required to include it.

Ted Luthin, Chair

Understood. I think we need to get to the bottom of this whole thing.

Christine Level, Board Member

I think if we take the average size and add 125% and a two-car garage we come up with the 3,732, and I think that would reasonably meet the intent of keeping the size the same. This does not preclude other structures. Like I said, the intent is to keep the size and height similar to what is there for *the* home. You can still have the workshop, the detached garage, but if we take the average square footage and we add 125% to that and a two-car garage we're going to be right up there at that maximum size that's already recorded in the neighborhood.

Tina Wallis, Attorney at Law

I do agree with Mr. Beale that there are almost no public records available for unconditioned space. The only source of those records that I know of is the County Assessor's Office and those records there are confidential and only available to the landowner. Going back to Larry's suggestion, maybe a solution would be with whatever submittal the applicant makes we make our best effort to provide readily available public information, which is going to be primarily conditioned space, because that is what's in all the public records, but if we can find reliable information about unconditioned space we could include that if it's available in a cost effective and reasonable way. I'm just wondering if that's a reasonable path forward for everyone.

Cary Bush, Board Member

Absolutely. It goes back to that apples and apples. If we only can compare some apples to apples that we have based on conditioned space, to throw a pear in this fruit basket is a bad idea. I think we stick with just putting down a cap for conditioned space, 125% would be 3,750, which was what staff had made available, and we put that as a cap for conditioned space. We've talked about the idea of all these languages that M8 is trying to provide, but it comes back to common sense. We need to put a cap there and look at a project—not just this project, but also any project that goes forward—with a cap that has multiple facets to it, but how does it really fit and marry a site? That's a big part of what we're doing as a Design Review Board, not sticking to a hold fast number and making a dogmatic solution. We've had staff calculate numbers here; let's just stick with that. It's what we need to decide on tonight. Thirty seven fifty is 125% of 3,000 square feet. Do you want to do 150% on 2,440 square feet? You could do that. We could do math all night long, but we have a chart here. Let's move on this.

Ted Luthin, Chair

We keep going back to that 3,732 square feet, and if our 3,732 is conditioned air space then our 3,750 should be conditioned air space; I agree with that. Anybody have a problem with that? Lars, does that make sense?

Lars Langberg, Vice Chair

I think that makes sense, and I appreciate what Tina said about the applicant could do some research as part of what they bring forward in the next round; it will include some sense of unconditioned space in the area.

Ted Luthin, Chair

Yes. Christine, does that make sense to you?

Christine Level, Board Member

I'm a little confused about this. If we're saying 3,700 square feet, whatever the number, what keeps that building from being 5,400 square feet and calling 3,700 square feet conditioned space?

Cary Bush, Board Member

It doesn't, Christine.

Christine Level, Board Member

So, the house would not be a similar size of the other houses then, it would be 5,400 square feet?

Lars Langberg, Vice Chair

Well, we don't know that.

Christine Level, Board Member

As a hypothetical.

Lars Langberg, Vice Chair

We don't know the data of what the other houses are in terms of their overall square footage. We just don't know. But to Cary's point, we can say the staff has given us this data and we were giving that back to the applicant and asking them to do a little more research and bring forward an appropriate project for us to look at. I don't know how we can do more than that.

Cary Bush, Board Member

Yes.

Ted Luthin, Chair

But I think we'd also probably want to say that if unconditioned air space comes back to us that exceeds something that's obviously typical to the neighborhood, i.e. a two-car garage, there needs to be some justification to support that. If somebody were going to come back with 2,000 square feet of shop and unconditioned space the onus would be on them to demonstrate that that's typical to the neighborhood.

Lars Langberg, Vice Chair

And it doesn't exceed.

Cary Bush, Board Member

The point that I would like to make is that we have Sebastopol Design Review Guidelines that really give us guidelines. I'm on the DRB, I'm looking at guidelines all the time, and this is the Bible that makes a great project. That's what we're here to review. To me, that's where it really applies. That's where the rubber meets the road for a project. Square footage is a big consideration, there's no question about it, but how it marries a site, all the conditions that are given through these guidelines, they're an enormous guideline for an applicant and for us. Again, we're trying to get to an apples and apples comparison using common sense. It seems to me that yes, there are so many variables, but I don't think we can keep going down the variable road without really looking at the guidelines to protect not only an applicant but also to protect the neighborhood and everything the guidelines have to say.

Christine Level, Board Member

Cary, I agree with you on that point, but this particular discussion involves size. M8 is size, and I agree within the size those guidelines are very important, but this particular subdivision was developed with an agreement about size and I think that's what we're discussing for this lot.

Cary Bush, Board Member

I'm with you, Christine, I just don't think you're going to fit a 5,000 square foot home on a quarter-acre lot with setbacks in each direction; it's just not applicable. Again, it comes back to all the guidelines that also have that sway in regard to setting a cap, which was something that was mentioned earlier. We're looking at a cap. It's not the Holy Grail here, but it's a cap; it's just a guideline for an applicant.

Ted Luthin, Chair

We did see an application for a 6,000 square foot proposal on this property.

Christine Level, Board Member

Thank you, Ted.

Gregory Beale, Applicant

Forty five hundred. It was misstated as 6,000 I think.

Lars Langberg, Vice Chair

Forty five hundred conditioned.

Ted Luthin, Chair

Yes, a bulk thing of 6,613 square feet.

Lars Langberg, Vice Chair

Yes.

Ted Luthin, Chair

So, we did see that before.

Cary Bush, Board Member

But does it fit the significant natural site features? Does it minimize its reflection to topography? Does it meet context of design for impermeable surfaces? Does it meet the massing requirements? These are guidelines. These are the things that we review when we look at any project of any size.

Ted Luthin, Chair

But we keep being asked to chime in on this M8 thing, and a big part of M8 is size, so I don't think one precludes the guidelines. The guidelines still apply, but we're being asked to chime in on exactly what is the interpretation of M8, which is really beyond our normal purview and I think that's where the discomfort comes.

Lars Langberg, Vice Chair

What I suggested was the staff report has given us information; we're assuming it's about conditioned space. The applicant needs to use that information. Then what Tina suggested was they also come forward with some sort of survey; it doesn't have to be incredibly detailed, but to say here's what the unconditioned space generally is in the neighborhood,

therefore we've come up with this design. Is that not enough to just put that forward as our recommendations?

Ted Luthin, Chair

I'm okay with that. I'm okay with the 3,750 and the unconditioned space has to be supported by documentation from the neighborhood. I don't have a problem with that. I see hands being raised, and I think we're in the middle of a discussion that we want to stick with here, so we'll get to you in a minute.

Marshall Balfe, Board Member

I agree with both of you.

Christine Level, Board Member

I'm going to go back to the 3,700 square feet for conditioned space then. That defies the similar size of the home, so I think we need to back that down. I'm willing to take the average plus 125% for the conditioned space, because that's an outlier. That's not average; that's not consistent with the M8.

Lars Langberg, Vice Chair

The M8 also says not to exceed.

Christine Level, Board Member

Homes, not home.

Lars Langberg, Vice Chair

Right. Well, but how many homes are that big? Do we have that list?

Christine Level, Board Member

Yes, we do. That is an outlier. That's why I'm willing to say we take the average of the homes on that list, increase by 125%, a magical number based on feeling. Then we have our unconditioned space on top of that, which is typical of the other unconditioned space in the neighborhood, which is probably garages; there's probably not another 2,000 square feet of other stuff. I think it's probably typical.

Ted Luthin, Chair

Got it. Christine, or maybe this is a question for John. Do we have the list of homes? You've mentioned this before, the 3,732 is an outlier. Do we have the list?

John Jay, Associate Planner

Yes.

Christine Level, Board Member

There's a list in the staff report.

Ted Luthin, Chair

Oh, is there? What page is that on? I missed the list.

Christine Level, Board Member

It's on the back of page 14, so I guess that's page 15. And I believe that's where John came up with his average. John, is that true?

John Jay, Associate Planner

Correct.

Christine Level, Board Member

So we take the average, we use the magical feelings number of 125% increase, and then we allow unconditioned space on top of that, but that unconditioned space has to be typical of what's in the neighborhood: a garage, maybe some other items that are typical of what's in the neighborhood. That's seems reasonable to me.

Ted Luthin, Chair

Yes.

Lars Langberg, Vice Chair

Seems reasonable to me.

Ted Luthin, Chair

I'm okay with that.

Cary Bush, Board Member

Yes.

Ted Luthin, Chair

It sounds like we're in agreement. So, we're talking about 125% of the 2,440. Is that what we're talking about?

Christine Level, Board Member

It says around 3,000, and then we have unconditioned space outside of that, but that unconditioned space must be typical of the neighborhood, however we're going to determine that.

Ted Luthin, Chair

Right, and the onus would be on the applicant to justify that.

Christine Level, Board Member

Correct. I think this can be a motion.

Board Member Level moved that the conditioned square footage of the house be maximized at 125% of the average based on the staff report, and that the unconditioned space, which would be the two-car garage and other space, would be determined later based on an interpretation of what is typical of the neighborhood.

Ted Luthin, Chair

I'm okay with that. We've got a couple of hands up. Let's hear what some people have to say before we proceed. Tina, you want to go ahead?

Tina Wallis, Attorney at Law

I want to clarify what I suggested for unconditioned space, and the reason I want to clarify this is that there may not be any public records available to justify this. We will make our best effort to do that, but if there are no public records, there is no public data, then we're just going to have to say we drove by and counted garages but we don't know if those garages were converted to bedrooms and they're now conditioned space. I don't think this Board intends to ask us to do something that is impossible, so I would say give us a little latitude and let us make our best effort based on publicly available or otherwise reliable data.

Cary Bush, Board Member

Yes.

Ted Luthin, Chair

Sounds reasonable. There has to be some common sense in determining that since we don't have hard and fast data, that we're going to have to drive around the neighborhood and say I see two-car garages and occasional three-car garages, so that square footage that you're proposing seems to make sense in that context. If an applicant comes along with 2,000 square feet of unconditioned air space I think we're all going to ask how is that justified? We don't see that when we drive down the street and there would have to be some explanation and some justification for that application.

Marshall Balfe, Board Member

I think there has to be some trust from the DRB now and in the future and I'm not hearing a lot of that. I know we have to resolve this, but design review is not going to ever approve a two-car garage and an additional 1,000 square feet of unconditioned space. I think we have to trust them. Also, I thought I heard in the language that was being bounced around a little while ago that we have to not exceed what exists now, so we cannot exceed 3,732. Now I'm hearing 3,000, and that's a big difference in the design of a home, and I'm not so sure we should just jump to something like that. Can we clarify that a little?

Christine Level, Board Member

I can clarify that for you, Marshall. The statement in the M8 says the average size of the homes, not home in singular. Now, 3,700 square feet is an outlier, so this is not consistent with the M8. It would have to be with the plural, and that's why we're taking the average of the homes within the 650-foot radius and then giving 125% addition to that. Does that make sense?

John Jay, Associate Planner

Marshall, was there anything else that you wanted to add? I don't hear anything else, so Greg, go ahead.

Gregory Beale, Applicant

I think we all want to wrap things up here, but I want to follow what both Cary and Ted said earlier. What we're talking about today takes nothing away from the standard process of a design review. I've been using the same guidelines that Cary was holding up when I was on the Board and preparing for this meeting. None of that gets diminished or taken away, so how you want to judge massing or all those different things still applies, whether it's conditioned, unconditioned, or whatever else. Tonight we're just trying to talk about M8 to find out if there's anything more unique, specific, or restrictive in M8 than the general review guidelines you guys normally use. It doesn't mean that we don't go through that same process. I want to take this off the pedestal a little bit. These things are very important because the language here has significant impact, and I don't necessarily agree with Planning or what you guys are coming to, but there will be another chance for us to go over this in a standard meeting. I have concerns about the accuracy of staff's data on what homes they chose to use for this, where they drew their radius from, whether it's from the middle of one property, the edge of another, or whatever else, and so maybe it takes it off the pedestal a little bit. Once again, I don't necessarily agree with what this outcome is, but once again the onus is on the applicant to come back and say within 125% of average of this, but to pick a number from Planning's report when I know there is incorrect information in there with comparisons of the data of conditioned neighboring properties to the total square footage, including everything of ours, to say it's 600% larger in how they chose the homes, I don't know if we can say that's the exact average number. So, if you guys are

agreeing on 125% of average per these things, then we can know that's what you're expecting, we'll do our research and present it to you. Here's our radius, here's our average, here's the data we did for this many-car garages and size and these things and this is the way we've interpreted it. And you guys, per any Design Review Board meeting, whether we had M8 or not, could say that house is too big. That's still there. This isn't taking from that, so I just wanted to make that clear that this is not taking away from a standard process.

Christine Level, Board Member

I'd like to speak to this. We have the staff report. That is the data that we have. I believe that you have an appeal period where you could correct that, so I think that we just go on the data that we have now presented by staff. This is not a discussion back and forth with you, and I've made a motion that we condition the size on 125% of the average plus unconditioned space that is determined later. I think that was a discussion that we were having before all this other conversation happened.

Ted Luthin, Chair

I agree that we're going to have to work with the data we have, and I don't know that we want to say 125% of some speculative average that's to be determined later. I think we go with the data we have, and if new data comes along, then new data comes along.

Christine Level, Board Member

I think we can say 125% of the average that we have with the data that we have at this time from the staff report.

Ted Luthin, Chair

Right. Larry has a comment.

Lawrence McLaughlin, City Manager

I'd like to caution the Board not to talk about appeal periods and the like. As I stated a couple hours ago, this is guidance to the applicant who is going to prepare a new project to meet your in-consensus development interpretation of M8. Whether you do that by developing a consensus or by motion you're giving the applicant general guidance, and there's leeway even in your guidance because you're asking the applicant to bring back additional information that could sway your ultimate opinion, so I just want to caution the Board again. That's where you are this evening, and I would suggest just developing a consensus and then keep an open mind when they come back with the project. This has been a very enlightening conversation, obviously. I think you've made a lot of headway towards your next analysis when you'll have a specific project in front of you.

Ted Luthin, Chair

Sound good. Steve Fabian, your hand has been up for a while. Do you have something you want to say?

Steve Fabian

I want to support Board Member Level's analysis of what this neighborhood is about. The reality is that if we used the biggest house at 3,700-plus square feet as being the maximum that this project can be, if that's what it's going to be for this neighborhood, what's going to happen is if every house went to that level the whole neighborhood would be totally different. It would change the whole nature of the neighborhood. You can't use the biggest house to say this is what the average of the neighborhood is like, and I think that to set the biggest house as being the average not to be exceeded could change what the whole

neighborhood is about in the future and would really destroy the feeling that the neighborhood has. Thank you.

Ted Luthin, Chair

Thank you for that.

Christine Level, Board Member

I would like to proceed with the motion if possible.

Ted Luthin, Chair

Let's proceed with the motion.

John Jay, Associate Planner

Tina has her hand up as well.

Ted Luthin, Chair

Tina, go ahead.

Tina Wallis, Attorney at Law

Just a suggestion. I'm hearing from some Board members a desire for a hard number and percentage. I'm also hearing from Greg that there are mistakes in the staff report. So, maybe again a solution is the Board can adopt a percentage of whatever, but leave some room for the applicant to come back and say here's what the Board did on January 5th, we voiced concerns about the accuracy of some of the data, we are providing additional data, and just give us some room. If we've got the data for conditioned space, let's bring it back to you and keep an open mind. It seems like that satisfies all of the concerns.

Ted Luthin, Chair

Thank you for that.

Lars Langberg, Vice Chair

That's where we are. I don't think we're putting a hard cap on. Nobody has suggested that. We're just trying to give some guidance. At this point it feels like the Board should move forward. Other comments need to wait till the future.

Ted Luthin, Chair

I agree. So, Christine, would you please restate your motion so we all understand what we're agreeing or disagreeing to?

Christine Level, Board Member

I would like to make a motion that the conditioned square footage of the house be maximized at 125% of the average based on the staff report, and that the unconditioned space, which would be the two-car garage and other space, would be determined later based on an interpretation of what is typical of the neighborhood.

Chair Luthin asked for a second to the motion.

Vice Chair Langberg seconded the motion.

Ted Luthin, Chair

We have a motion and we have a second.

Chair Luthin asked for any additional Board discussion. Hearing none, he called the question.

AYES: Chair Luthin, Vice Chair Langberg, and Board Members Balfe and Level

NOES: Board Member Bush

ABSTAIN: None

ABSENT: None.

Ted Luthin, Chair

Motion carried. So, that is our guidance for today. John, do we have anything further on our agenda?

John Jay, Associate Planner

No, I do not believe we have any other agenda items.

Ted Luthin, Chair

I will thank our applicant. Thank you very much. That was a good exchange. We appreciate the input from the community.

Gregory Beale, Applicant

Thank you as well. This is a difficult conversation, we're all trying to do the right thing, and I really appreciate everybody's time in the late hour, so thank you.

8. SUBCOMMITTEE UPDATES: None.

9. ADJOURNMENT: Chair Luthin adjourned the meeting at 6:41 p.m. The next regularly scheduled Tree/Design Review Board meeting will be held on Wednesday, January 19, 2022 at 4:00 p.m.