

6. STATEMENTS OF CONFLICTS OF INTEREST: None.

7. REGULAR AGENDA:

- A. DESIGN REVIEW, TREE REMOVAL AND TREE PROTECTION PLAN: 771 AND 773 FIRST STREET** – Project #2021-028 – The applicant is seeking approval of Design Review, Tree Removal, and Tree Protection Plan to construct a new single-family residence and accessory dwelling unit at 771 and 773 First Street. Design Review Board approval is required because the application involves the development of a new single-family dwelling unit in a new residential subdivision of three or more units per Section 17.450.010.A(2) of the Zoning Ordinance. The project is categorically exempt from the requirements of CEQA, pursuant to Section 15303, Class 3, which includes the construction and location of limited numbers of new small facilities or structures.

Associate Planner Jay presented the staff report and was available for questions.

Chair Langberg asked for Board questions of staff.

Christine Level, Board Member

Why is there a variance being applied for at this late hour? Shouldn't that have been done at the beginning of the project?

Kari Svanstrom, Planning Director

The variance is not in the DRB's purview, so you should not be considering it, and we can't discuss pros or cons of the variance, and it's not noticed on the meeting. In terms of the variance, the subdivision was approved by the City Council in 2002 that in essence requires the driveway to be within the creek setback. Planning staff felt that that was all that was needed when it was brought to our attention. I spoke with the City Attorney and he said even though it's clear what the City Council's intent is, a variance was not granted at that time, that that should be brought to the Planning Commission now, and so we are processing that and the Planning Commission will hear that on April 11th.

Christine Level, Board Member

I'm still having trouble understanding how there could be an assumption based on the project that there would be a variance required for a driveway through basically the entire creek setback. Why would the City Council assume that? The setback is clearly noted on the approved document.

Kari Svanstrom, Planning Director

I'm going to let our City Attorney respond to that.

Lawrence McLaughlin, City Attorney

Just as the Planning Director said, because of the City Council action back in 2002 in creating the subdivision they placed the driveway basically within the creek setback and that would, we believe, require a variance. But as the Planning Director also stated, that is not on the Design Review Board agenda for today, it is not within the purview or jurisdiction of the Design Review Board, and it is a matter that is coming before the Planning Commission. So since it's not agendized today, I would recommend the Design Review Board not discuss the variance issue.

Christine Level, Board Member

I would like to make one more point though. One possible option for the driveway ends at Lot 3, so we could just turn up and not encompass the whole entire property line there along the setback, and that could be something that could be decided by the Planning Commission, and so I feel that we've got the cart in front of the horse, because that could change the design of the building. I'm happy to not discuss; I'm just bringing these points forward that there were a lot of issues with the creek setback. There's a reason why creek setbacks like this are universal; the Sebastopol creek setback is typical everywhere, and so I don't think it's obvious they're just going to grant it. Like I said, you just turn up and minimize the intrusion on the creek setback, which would change the design of the building; that's why when I'm doing projects I get this stuff resolved before I design the project.

Kari Svanstrom, Planning Director

I will show the screen of what the City Council actually approved in terms of this lot, which was that that any structures were limited to the building envelope, which is about 5 feet from the property line where Board Member Level is saying a driveway could be, and then they specifically said no building outside of that, and obviously even on this lot even if you were to do that you would actually end up with the driveway within the creek setback anyway on this lot. This is the alignment of the driveway, so it would have to come in at this location. Again, you'd have to make some sort of sharp turn or something, but it would conflict with what the City Council at the time designated as the building envelope.

Lawrence McLaughlin, City Attorney

Kari, I caution the Design Review Board against further discussion of this issue. Again, it's not on this agenda. Anybody interested in this issue would not know that this would be discussed today. It's on the Planning Commission's agenda, so I would recommend no further discussion take place on this issue.

Kari Svanstrom, Planning Director

I can note a contingent approval the City has done many, many times in the past, so this is not an unusual thing where there are two different components needed by an application and one body has to go first. The other body could say we want to know what the Design Review Board wants, and then you're never going to get to a decision, so you have to pick one body hearing, and since this body is clearly already familiar with that, your hearing is today and theirs will be on April 11th, so this would just be contingent on it being approved at the Planning Commission level as well.

Christine Level, Board Member

I want to clarify one thing, because it's going to come up later and something I'm going to mention. The exclusive purpose of the January 5, 2022 meeting was to provide some guidance on the M8. There was no intent in that meeting to review any specific project documents?

Kari Svanstrom, Planning Director

Correct. There was not a second submittal. That meeting was held to provide a direction to both staff and the applicant at that time. There were no project documents as part of that meeting; it was simply about the subdivision resolution and how the applicant might move forward. As Associate Planner Jay noted, that is not binding on the DRB. I know it was in the form of a motion, but that was not a valid motion other than to see if there was consensus among the DRB.

Christine Level, Board Member

So our purpose there was to provide guidance and interpretation?

Kari Svanstrom, Planning Director

Correct. It was noticed and conducted as a study session, not as a hearing or formal meeting.

Chair Langberg asked for further Board questions of staff. Seeing none, he invited the applicant to make a presentation.

The applicant gave a presentation and was available for questions.

Chair Langberg asked for Board questions of the applicant.

Christine Level, Board Member

The DRB's interaction with this project was a meeting in August 2021, and in that meeting we discussed some general aspects to the project and the concern for the M8 came up. The second meeting that we had was January 22, 2022, and that was to discuss the M8, and we had a discussion that lasted for quite a long time and agreed to the guidance of the average square footage plus 125%, and then we did not see this specific project again, these plans, until February 23, 2023. So while there is this discussion about neighbors and neighbors fighting with each, what I know about the project, what's relevant to me, is what our task is as Design Review Board members, which was an initial preliminary review, a discussion of M8, and now we're here, so I don't feel that the Board had anything to do with all of this activity going on that you just described. I'm making this comment because there were all these meetings and all this time, but actually it wasn't for us. This is our third meeting on this project, and the second meeting wasn't about the project per se to discuss the design, so we haven't had an opportunity. We're not delaying discussing the design, we haven't even had an opportunity to do that really; I just want to be clear about that, and this neighbor drama is not interesting to me personally. I don't know how my fellow Board members feel; it's public comment and we should take it in.

Cary Bush, Board Member

How is stormwater mitigated prior to creek discharge?

Greg Beale, Applicant

We talked to Planning and that is something that needs to be addressed before a permit can be issued, so we haven't done calculations. Is there a specific part you're asking about?

Cary Bush, Board Member

Yes, on page C2.0 there is some daylighting of pipes that discharge directly to the creek, so I'm wondering how is it mitigated prior to that discharge? How do you have something poured down the drain not go right to the creek?

Greg Beale, Applicant

Interesting. I don't have an answer for that.

Cary Bush, Board Member

Are the water, sewer, and power lines in the creek setback?

Greg Beale, Applicant

There is existing there that runs with the driveway.

Kari Svanstrom, Planning Director

I can share my screen on this one, which shows the plan. There are utilities; water and sewer are already underneath the driveway area. Utilities are allowed by our code within the

creek setback. Again, we're not dealing with variances, but those are allowed, and they are shown on that sheet C3. The water is coming to the property line, and then it is coming up and going in, and then goes over the ADU, and then the sewer line comes down that way underneath where the driveway would be.

Cary Bush, Board Member

Is solar required for this project to be built on a new home?

Kari Svanstrom, Planning Director

Yes, that is part of the building code.

Cary Bush, Board Member

And would that be roof mount?

Greg Beale, Applicant

It would be, yes.

Melissa Hanley, Vice Chair

You provided a comprehensive survey of homes in and around perhaps the entire City of Sebastopol. Have you come to any singular understandings about the data set?

Greg Beale, Applicant

The data we collected within the areas that we listed are consistently inconsistent, and like I mentioned earlier, is not far from this property some of the smallest homes on the smallest properties have highest FAR, and those properties are next to some of the largest properties with larger homes but that have lower FAR. What was very interesting was comparing First Street to Hayden/Jewell areas that are so different. There were questions and concerns about this being a standout, or the one house that was as large as this, and we found that there are a lot of three-car and two-car garages, and out buildings and barns, but what we also found is there is a lot of inconsistency with the publicly available information. It doesn't track additions and things like that either, so for what is available to the public, this is as thorough as we could get, and to go beyond that we would have to knock on neighbors' doors and they would have to allow us to measure it. Regarding the unconditioned square footage, once again it felt so impossible to determine how much one house to the next did. For example, 400 Swain Avenue is a 4,099 square foot house, but no one in the neighborhood knew that, because it is set down from the road and looks like a one-and-a-half story from above, very similar to what the east side of the Schoch's house would be; and from down below Jewell Avenue it can't even be seen because of the trees and vegetation, just like the Schoch's house. That's the context that was interesting when we did the survey and then comparing it to the house on Litchfield Avenue that had small numbers but huge presence.

Melissa Hanley, Vice Chair

Did the Schochs also look at a larger ADU, because 1,000 square feet is allowed?

Greg Beale, Applicant

They were able to accomplish their goal of two bedrooms, but they did not want to take up more lot coverage than they did. They wanted to have laundry, but were able to do that in the garage, so I don't think there was any desire to go larger with the ADU.

Melissa Hanley, Vice Chair

Shifting some program from one of the masses to the other.

Greg Beale, Applicant

I'm glad you just said that. When we explored before the first submittal, but mostly since, the closest frontrunner to changing the overall program would make the main house a single-level home, which would be exactly what it is but 3 feet lower, and we would put the garages underneath the ADU and that way it wouldn't increase, but then you would have a much larger house or structure there, and in all the studies we did we found that putting things underneath the main house had the least amount of impact on the different directions of sight and what it would be on the neighbors, if it would even be seen from a public street.

Melissa Hanley, Vice Chair

A lot of non-indigenous stone material has been selected for the exterior. Have you looked at things that are more locally sourced?

Greg Beale, Applicant

That's an option we'd be open to.

Chair Langberg asked for further Board questions of the applicant. Seeing none, he opened public comment.

Paul Schoch

I represent Steve and Rose Schoch. We're looking for a favorable decision from the Design Review Board to approve the project, but if the Board can't approve the project, we need to have a decision for approval or denial, because this has been dragging on for three or four years and they need a decision to move ahead or not.

Steven Fabian

I'm not here to be a NIMBY. I hope the Schochs get their house, but my understanding is that when this subdivision was approved there was a limit set that each house could not exceed the average amount, which turns out to be 2,400 square feet, so I'm not sure how not exceeding what the neighborhood should be became 125% of what the neighborhood should be. The house they build should fit the requirements that the family agreed to when this subdivision was made, and that's all we're asking for. Regarding the statement that this house could not be viewed from the street level, it might be low enough that it could not be seen from Jewell Avenue, but people on First Street would be able to see it. All we ask is that this house be one that doesn't exceed the agreed upon limits, and this house is way beyond that. If 2,400 square feet is the neighborhood that this house is being built in, then even at 125% that is 3,000 square feet and this house is beyond that also, so they are exceeding the square footage limit agreed upon at the time of the subdivision as well as the 125%.

Dale Jewell

I've known the Schoch family for a long time and I'm delighted to have them as neighbors. The site is beautiful and a lovely place to build a house, which I'm okay with, but my main concern is that the trees and the creek are protected. I want to ensure the house isn't too big and impinging on the natural resources there. We did go door-to-door talking to the neighbors because the original plan was bigger and imperiled the trees, and I'm glad the plan was changed to protect the trees, and I'd like the Design Review Board's opinion as to whether the plans are okay now. If the house doesn't imperil the trees and creek, I'm okay with it; I just want it to be reasonable. It's a really big house, but I'm glad it was designed to be low.

Laura Berke

My issue is the same as the other two speakers that the agreement was for 2,400 square feet. I find it unnerving that the applicants feel that the rules do not apply to them. Why can't they live in a 3,000 square foot footprint? All of their neighbors do, and that was the agreement for this subdivision, and that accounts for a lot of the blowback to the building of this property.

Paul Olson

My wife and I live on the eastern boundary of the subject site. Many of my prepared comments have been voiced by some of the Board members and audience members. My first issue is the size with the house's total mass at 6,500 square feet. I appreciate the reduction of the footing and size so it saves the trees on the eastern boundary, which are important to everyone, as they are a natural buffer to the sun, the winds in the wintertime, and they beautify the neighborhood. The Design Review Board laid out guidance that the house would be the average of more recent homes within 650 feet from the building site multiplied by 125%, which is about 3,000 square feet, but the house came in at 3,977 square feet, so the DRB's recommendation was ignored. The municipal code requires a 30-foot setback from the creek to protect the creeks, and it seems that was also ignored with the driveway going over that and impinging on the creek setback. A variance will be voted on next week and the staff report has stated that if the creek setback is denied that the lot could be deemed unbuildable, and it has been implied that the City might be liable for any monetary costs that have been accrued for an unbuildable lot. I do not believe this is true, and I think there are less intrusive alternatives that could be explored, such as rerouting the driveway, as suggested by Board Member Level, or reducing the size of the house so it fits better in the limited building envelope of less than an acre. I have no problem with a house being built there, but the size of the house was a surprise, as it takes up almost the entire building envelope and a smaller home would allow for some adjustments to that setback. Another thought is the City has an ADU requirement for new construction. Would it be possible to eliminate the ADU, which would allow the house to be resituated in a more amenable way to create access and protect the creek?

Dan Salvadori

My wife and I live at 814 Jewell and most of the comments by the Board today address my issues. My basic issue is that a smaller house would fit on this lot, the lot is not unbuildable, and if the smaller house fits on the lot they will get the setbacks needed for the creek and trees, and the riparian area would be kept in very good shape. My other concern is the recent enormous rains during which I observed flooding on my neighbor's property south of this subject lot, and it was huge, like a 50-foot water area that is big enough to go over the drainage pipe that lies across the creek and into the Schoch property, and in the area the creek bed is very narrow, so there is an enormous, wide flooded area trying to drain into this very narrow area with bad results. It would be great to get a hydrology report looking at the drainage all along this area, north and south of the building site as it goes to First Street on one end and south to this flooded property. A hydrology report would determine what to do about this flooding and how to make it right through the entire area so no one area floods disproportionately, because we will have even bigger rains in the future and a comprehensive strategy to deal with flooding should be created now.

Steve and Rose Schoch

We made every effort to try to preserve the natural setting in the design of the house by eliminating three rooms and reducing the size of the house to make room for tree roots. The neighbors are used to having this beautiful open area, but we have a legal right to build on this property we have owned for 20 years. We are in our 60s and want to retire here. We have twice hired professionals to keep the creek clear so the water runs smoothly and to

ensure the creek does not flood, but bigger rains caused by climate change is beyond our control. This property is almost an acre, and with such a large property we have a very narrow building envelope, and the requirement to have an ADU built reduces where the house can be placed. This has been going on for two years and we hope for a decision today, because it is not fair to us.

Chair Langberg asked for further public comment. Seeing none, he closed public comment and asked Director Svanstrom to answer the questions the public speakers had asked.

Kari Svanstrom, Planning Director

The question that came up a couple of times was about the rule that was part of the subdivision approval. The 2,400 square feet and the 125% square feet are not in the resolution. What is in resolution M8 is specifically, "...the size and height of the homes...shall not exceed those of similar homes of more recent construction in the general area." That doesn't say anything about exceeding the average size, it says, "...shall not exceed the size of the home," and while M8 is of interpretation, it's up to the DRB based on the language of M8. I believe we did include in the staff report that we know that there is a home that is 4,400 square feet and has a three-car garage on Bayberry Court one block away, so in terms of this home exceeding it we believe that the DRB isn't violating the subdivision if you interpret that what is proposed is okay. The specific language of the Subdivision Ordinance is that the home shall not exceed the size of similar homes in the neighborhood, and the January discussion of averages was to provide the applicants some guidance. The second question was when the Planning Commission would hear the variance, and that will be on April 11th at 6:00pm, and that will also be in this room; we just sent out the correct mail notices today. Additionally, speakers said the applicants signed an agreement to include an ADU. There are two components to this: 1) the DRB as a board under California State law and the Housing Accountability Act cannot condition a project to reduce the density and the number of units; that would be a violation of State law. If the applicant chose to do that on their own because they didn't want to have an ADU, that would require an act of the City Council, however, under State law they would be allowed to build an ADU in the future, because you cannot disallow an ADU even on subdivisions where they were disallowed previously. In the State of California you cannot prohibit an ADU from being built on a single-family home property. The last question was from Member Bush regarding the stormwater, and I see that the plans show a couple of riprap rocks right now, which are not necessarily appropriate, but there is a condition of approval in the subdivision, E22, so they will need to include this in their project. E21, E22, and E23 are the water requirements. "Drainage facilities shall be provided...to eliminate the effects of additional stormwater...on adjacent properties." That's a general requirement when people are doing development anyway, but it's specific here. "Calder Creek shall be protected from water quality impacts due to additional stormwater runoff. Subject to feasibility...drainage shall be filtered by natural vegetation or infiltration prior to entering Calder Creek." So that will need to be part of the design development prior to building permit given this condition, even though not part of the design right now, and that will be reviewed by our City Engineer. Additionally, under new regulations any project that is submitted to the City of Sebastopol is subject to stormwater low impact development standards (LIDS). The summary of that is your predevelopment impacts in terms of the amount of water, the flow, cannot exceed after development, so you have to have the same flow. You might have a little bit more water, and so it might be a longer flow, but it can't increase the flow that would then cause flooding downstream, and that's a requirement of any project within the City. The last one is just that they're subject to any permits that might be necessary. So those are the three stormwater requirements that are conditions of approval already on the project based on the subdivision, and so Member Bush, you may have some discussion and guidance, but just to understand that that is covered already in those conditions.

The Board discussed the application as follows:

Lynn Deedler, Board Member

Yes, the house feels too big of a house for the property or the situation. I don't think it would be good for the community for that beautiful, natural property to be built out that densely. I think the area restrictions as far as the house size are good. I would tend to favor a 2,400 square foot house and no larger, perhaps with another 1,000 square feet of unconditioned space, which is about the size of a large four-car garage. I have trouble with the look of the house; it's a very busy design, but if you go up First Street you see very simple rooflines and none of the ins and outs that this house has. It seems like a showpiece house, not part of nature there, so aesthetically as an attractive house I have concerns.

Cary Bush, Board Member

We saw the project in its preliminary phase and it was still echoing the same comments that Member Deedler just made; it's large house on a small building envelope. It's a tricky site and has some limitations, and to shoehorn a big house on a small lot is difficult and this is the result of the challenges. How do you feasibility manage all these parts that are trying to fit onto a really small site? It comes with careful planning, which I think everyone has tried to do. There is also the concern of how it affects everyone downstream, and this is an important part of who we are as a community; we all share water. My concerns were the stormwater and the utilities within the creek setback, and we're told today that that's allowed. Again, there is the size, mass, and scale of the house, which is large. I appreciate the reduction in size in trying to satisfy the neighbors and pay homage to the natural surroundings, and that is the best part of the site planning process we've seen in this application. Architecturally speaking, I'm comfortable with the style of the home and think it mirrors many of the styles of homes around the neighborhood, so I'm fine that it finds a sense of consistency; the architectural details are there. It's tricky with site planning and the solar requirements and a delicate balance with the trees needed to mitigate stormwater management, shade, and privacy, and that comes down to landscaping and is well addressed in staff's conditions. There seems to be an impasse here that the plans are trying to present, but I don't believe the DRB is the holdup; what has been the holdup is the process of really good design trying to fit a really big program on a small site, and this is the result of it. If there were any consolation made, it would be a smaller house. You have to give a little to get a lot, like a great neighborhood and great community.

Melissa Hanley, Vice Chair

I sympathize with the applicant, because they are entitled to build a house, and our obligation is to find a way through so the applicants can come up with something that works. The applicants have taken out a lot of mostly interior square footage, been really clever around the trees, and done a good job of dealing with the slope, but as I look at elevations I'm not seeing a shift in terms of the mass of the house, and that still concerns me; I absolutely echo all of Board Member Bush's comments on that. I disagree with Board Member Deedler regarding the change in materiality; our design guidelines actually request change in plane and materials, especially for large structures, and I think the applicants have done a nice job of trying to introduce a variety of materials and rooflines and trying to deemphasize the mass of the house with the use of trellises and ornamental structures. If we could try to find some materials not from New England, that would be great, because it is such and beautiful natural setting and I'd love to see something inspired by that. I agree regarding the sizing and think a 3,000-3,400 square foot house is a lot of house. I ran through Greg's numbers, and if we were to take an average of all the data that you provided it's 2,228 square feet, so the City is actually a little more generous in their numbers, and then if you were to go 125% of that it would be just shy of 2,800 square feet,

but again, you cast a pretty wide net in terms of size and date of home, so I think keeping it narrow to what the City has identified is probably in the best interest of the project. Then I just noticed that the footprint has not changed from the prior submission, and that's really speaking to the concern about the mass of the house.

Christine Level, Board Member

I want to take up the letter that the Schochs wrote to the neighbors where they state that, "Right from the start the Design Review Board have made up their minds that we are from some dot com company coming to take over the town." I want to assure you that that never crossed my mind and I'm sure my Board members also don't feel that way at all about you. Regarding the continuance of the February 23rd meeting you state that, "All the necessary documents were given to the DRB five months ahead of time." No, we actually got those documents the Thursday evening of February 23rd before the meeting. I just wanted to have the opportunity to study and think about the whole thing, and there was no intent to delay you, as you say here. I feel that the structure itself is really large, and I wouldn't want to be Paul Olson, because they're going to be sitting on their deck and it's 85 feet of asphalt composition roof right in their line of view, and that's huge. I'm concerned about the creek. We're not allowed to talk about the creek setback, but where the drainage goes and how it gets there and its impact on the creek. I looked at the creek yesterday and the precious creek has been entirely invaded by blackberries, a invasive non-native species here; they are clogging up the water flow and that may be part of the problem with the flooding. I definitely would like to see a smaller house, and we have provided guidance, which was the approximately 2,400-2,500 square foot times 125%, but if you look at the P7 of the subdivision agreement there is a huge opportunity there for you to have your rooms, because it says in here that family or anybody in the household can use the ADU. The ADU doesn't have to be rented out, it just has to be built with a kitchen, so there is an opportunity on this property for two modest houses that fit into the neighborhood that could be entirely for your use, and with 1,000 square feet plus the 2,800 square feet, you're at your square footage that you have anyway. Finally, if the house pitch got oriented the other direction where no one would be looking at 85 feet of asphalt composition, it would be in a better position to place the solar panels too, because of the orientation of the lot.

Lars Langberg, Chair

To echo Board Member Bush's comments, just the difficulty of the restriction of this site, not only the smaller building envelope, but the slope, is hard and they're trying to put a lot of challenging program on this site, but it does meet a lot of our design guidelines. The one comment I'll make is related to the M8, and that is discussion of size is not just about square footage; it's about scale. Twenty years ago was a different world than we live in now, and thinking of a size of house for two people brings up to me the sense of wise use of resources. Is this really the appropriate size and scale for that tricky site in this day and age? The sense of appropriate size and scale to me is smaller than what is proposed; that's taking the bigger picture into consideration and not just canvassing the neighborhood to see what square footage the buildings are or if there is a two- or three-car garage, but the difference of development 20 years ago to today is the lens through which I look at this project. The project does still meet a lot of our requirements for sure, so we also need to look at it from that perspective.

Lynn Deedler, Board Member

It is not just square footage that is the concern here; it's the massiveness of this house. It feels more massive than the square footage on paper. It has very wide walk-around decks on it, several very large porches that have lattice or roofs over them, grandiose stairways, and all these exterior features seem to double the size of the house and that affects us and the neighbors.

Christine Level, Board Member

I wanted to comment on the difficulties of building out to the building envelope. For example, on the backside by bedroom 3 you've got a 6-foot retaining wall shown on the building sections and you're built out to the envelope, and staff talks about how you cannot grade in the 20-foot line between the back setback and the property line, but when you build a 6-foot retaining wall you have to have a layback of two to one per Cal/Osha standards, so you're really grading back 12 feet. I'm also very concerned about Tree 5, because it is 5-7 feet from the building based on scaling and what I determined is the branches are all coming this way over the building, and I don't know what those branch heights are, but I suspect they're going to have to be groomed back.

Lars Langberg, Chair

Would our City Arborist, Becky, like to speak on that?

Becky Duckles, City Arborist

The last two comments were an especially good lead-in to my concerns and issues. Yes, it's not just the branches that extend to the west; it's the trunks of the trees. It is a multi-trunk tree and they're pretty good sized and extend to the west about 25 feet from the base of that cluster, and so they would extend over the covered patio to the proposed house. I appreciate the effort that's been made by the architect and designers to respect the root zone of those trees, they've made some concessions by putting in a covered patio and planter area, but Greg is right, we have practiced this litany about the tree's roots being in the top two feet of all species, and so on the area where there is going to be a retaining wall, a pier and grade beam or even just the piers would have significant impacts on the tree roots, and so it would be imperative to have the project arborist, Chip Sanborn, on the site when any excavation is done. Mr. Sanborn has said in this report that some of the roots may be so significant that the trees may have to be removed, and he would determine that onsite at that time. Sometimes it's helpful to prepare ahead for an event like that, and I suggest hand digging to the depth of whatever the footing is going to be in that zone within the drip line of the tree to determine the presence of roots and what would have to be cut. The other issue is above ground. We're going to be looking at huge pruning requirements, and not just pruning; there will be the removal of a couple of trunks of trees just to accommodate the house, because it does arch over. It's probably from past competition with other trees and other structures that they've grown in that direction, but that's where they are, so we want to minimize the amount of pruning that has to be done, but as Member Deedler said, those exterior raised decks and stairways are definitely within the zone where that's going to really impact the structure of those mature trees, so we need to talk about root protection and observation during construction, and we need to look closer at the planning. For example, if the piers are going to be drilled, the drill bit, the rig for the drilling is equal to or greater than the height of the depth that it's going to be drilling, and so you've got this great big piece of machinery and the bit is usually 18 inches or so up into the trees before it goes down, and so a lot more care has to be taken ahead of time to determine clearance for equipment, operation of equipment within those trees' root zones and canopy drip lines, and soil compaction. I think it is doable and there are some good measures that could be taken to prevent damage to the trees. There will have to be some removals. I would just like to know that some more attention is given to any excavation and grading for the retaining wall, the roots, the piers, the overhead pruning that's going to be required, the clearance, and that the project arborist would be overseeing a lot of that.

Lars Langberg, Chair

Some of that language is already in the presented conditions of approval. The only thing I don't see would be specifically related to the drill rig, for example, but it does say hand dig to start.

Christine Level, Board Member

On that tree I'm going to say 50% of the branches are cascading right over to the roof, so if you were to cut those off the build the house, what would be the impact on the tree?

Becky Duckles, City Arborist

They're not just branches, they're trunks of separate trees growing from the ground; it's a multi-trunk re-sprouted sort of structure. Even in Sebastopol's pruning ordinance we require no more than 25% maximum pruning of a tree, and so if you've taken off this much that overhangs the house you're taking off probably more like 50% of its live crown, and so the trees might need to be removed entirely if they don't have enough photosynthetic abilities remaining to provide food for the tree, so decisions will have to be made. Maybe when the project is staked the project arborist could go out there to see if there would be requirements for story poles. I think story poles are a great idea, and they could include not just the footprint of the house, but the exterior structures too.

Melissa Hanley, Vice Chair

Is it your opinion that the tree will survive construction as currently designed?

Becky Duckles, City Arborist

It's a multi-trunk tree, and so it's a shared root system, so I think at least one trunk is probably going to have to be removed entirely, but it's not going to kill the rest of that cluster, and so this would be a significant impact and needs to be addressed ahead of time.

Christine Level, Board Member

I feel I can't make a decision on this project at this point, especially since we don't know where this variance is going and we're not allowed to talk about it. I'd like to see what other members think about denying the application and letting them move on to appeal, because our staff lawyer indicated that we didn't make a decision and so they couldn't appeal.

Lars Langberg, Chair

That is correct on the discussion we had about the size; that was a nonbinding decision, so there was no recourse for appeal.

Lynn Deedler, Board Member

I think they've probably heard all they need to in order to proceed if they want to.

Board Member Deedler moved to deny the application as submitted.

The motion failed for lack of a second.

Cary Bush, Board Member

I think we have a project here, and I would love to see our applicants take it back to the table and make it conducive for the neighbors. There is a scale and mass and size of the home that does not reflect the character of the site, and as a Board member it was made clear in our initial preliminary review that the house was too big and didn't fit, and although it is still smaller, again, it doesn't respond to the site, and it would be great to see this project that does have merit go back to the table. I would like to request our Chair allow me to ask the applicant to clarify what he thinks his clients would like to do.

Lars Langberg, Chair

We actually always have a third option. We can approve, deny, or continue. I know that some of the people in the room don't want the continuation option because it feels like it's dragging it out further, but that is always one of our options. Greg, would you like to answer Board Member Bush's question? Could you state it again?

Cary Bush, Board Member

We've seen your application, we've seen the numbers, and from all the input and feedback we've given is this simply a dead project or do we still have a project?

Greg Beale, Applicant

The shade of grey is that there are always conditions of approval, so like Planning recommended, and a lot of what the Planning report included hasn't been addressed much, but it's not black and white, that we're looking for pass/fail, but with the entitlements that my clients have and the limitations of the purview of the Design Review Board to dictate, where does that begin and end? If there is an offer of conditions for approval, we would be open to that.

Lars Langberg, Chair

That's a good response. To go back to how the process works. We can approve or deny exactly as written, or we can condition an approval. Because the project is not done with its design even, when it goes to permit and all the details that have to go into a building permit submittal designs change and they have to meet our approval in the intent, but they can continue to evolve, so we as a board can approve with conditions to help shape how that design works.

Greg Beale, Applicant

In the past when I was on that side of the table there were proposed conditions for approval to which the applicant could respond in real time as to whether they accepted the conditions, and if the answer was no, then they would not get approved. Like Planning has suggested and recommended as far as the improvements that were in the current design within the drip line of the setback on the east side, to talk about whether we would accept those types of conditions. Is that part of the process, that we would have the chance to say we accept going with those conditions?

Lars Langberg, Chair

My understanding is not really. We're a small town and we like dialogue, and we're happy to do it. Typically in this kind of process there isn't that dialogue, but Director Svanstrom, maybe you can correct me.

Kari Svanstrom, Planning Director

It sounds like there are two things. One, there are proposed conditions, and certainly if you have concerns about those I would have hoped that had been part of your staff report, and I think as staff we heard that you were okay with those.

Greg Beale, Applicant

Correct.

Lars Langberg, Chair

The already proposed conditions?

Kari Svanstrom, Planning Director

The already proposed conditions. The second component of it is what Chair Langberg is suggesting, that it sounds like there is a potential willingness to work through additional conditions for the project that would allow them to approve it.

Greg Beale, Applicant

Right.

Kari Svanstrom, Planning Director

And yes, usually in that we would ask. There are two ways it could be done. One is the Board can just do that approval, and if you don't like it you can appeal it.

Greg Beale, Applicant

Appeal an approval that we don't like. That is a process, right?

Kari Svanstrom, Planning Director

An applicant can appeal the approval for their project, just like they can appeal the denial. But I do believe that if the Chair deems a dialogue of is that acceptable appropriate, it's ultimately the Board's decision, but they allow input from the applicant during that process.

Lars Langberg, Chair

Which is fine. As I said, we're a small town and we like dialogue. There's something about that though too. Like are we going to go through a checklist? To go through something like that does not seem very productive. Maybe we can have a discussion—this is part of the next step—on what the conditions would be that would satisfy the Board, and then maybe we talk about that as a group with the applicant as opposed to just back and forth, one at a time kind of thing; that's what I want to avoid.

Lawrence McLaughlin, City Attorney

You could task staff with coming back with proposed conditions of approval and continue it for staff to return if you don't want to go through a dialogue tonight. Staff obviously has heard a lot of comments from the Design Review Board members about their specific issues, and theoretically staff could craft revised conditions of approval to bring back to you. I can see that it would be rather time consuming to go back and forth with the applicant this evening to go over proposed conditions, especially potentially difficult for the applicant to confer during this process, so that's one option. There are many options in front of the Design Review Board at this moment.

Lars Langberg, Chair

It seems to me everyone could comment and we could discuss potential conditions. Kari, if we did that we have to make a motion first, or do we just discuss potential conditions?

Kari Svanstrom, Planning Director

I would suggest that you discuss potential conditions, even if you ultimately ask staff to go back and draft those, because at this point I need more input on what exactly you all want to have included, and then if they're easy conditions we can take a recess of five minutes or so if the applicant needs to consult with the owner. If it becomes too complicated and you feel like staff needs to go back and draft those for you, then yes. I would suggest you still get some sense from the applicant as to whether that's acceptable, but then you could continue it, and you could certainly continue it to a special meeting date just to make sure that it is done in a timely manner.

Christine Level, Board Member

I have to go on record as saying that having the approval for a variance for the creek setback as a condition of approval is a nonstarter for me. I don't think that that particular variance, I don't even know what they're offering; I haven't even seen it. I think there's a proposal for the variance that I got three hours before this meeting, but there is a lot to consider with this creek setback. There are agencies, and this is a sacred area, and there is possibly a biological report.

Lars Langberg, Chair

We're not discussing that.

Christine Level, Board Member

Thank you for stopping me, but there are complications associated with that particular condition that would make me either say denial or continuance, but not approval with conditions.

Lars Langberg, Chair

That condition is going to be on the project regardless of what we say or do.

Kari Svanstrom, Planning Director

Correct. Well, we're recommending it.

Lars Langberg, Chair

It's already agendized.

Kari Svanstrom, Planning Director

Even if it were not included in the DRB's approval, they would not be able to submit a building permit until all of their entitlements are done, so they would not be able to submit until such time as the Planning Commission hears a variance. And I want to stress, this is a normal process for the City; we have done this many times. The Planning Commission approved several things for the Hotel Sebastopol before City Council did final approvals for a zoning amendment and some other items. I realize Board Member Level may have discomfort with the variance with it, but it is not an unusual process and all of the conditions related to permitting and creek requirements are already part of the project as they are conditions of approval from the subdivision.

Christine Level, Board Member

Understood, but what I'm saying is how this plays out may eventually affect the design of the building, because how it gets approved could affect the building, so cart before the horse.

Lars Langberg, Chair

Right, but we are evaluating the horse that's in front of us.

Melissa Hanley, Vice Chair

We have to give the applicant something to work with; it's not fair to continue this again. I would love to have some discussions around mass, size, scale, something that they can work with tactically and doesn't have the word "feeling" in it.

Cary Bush, Board Member

I'd like to see this project built. I'm ultimately trying to say that this is a project, but it's not a yes or no answer here, and that's what the Board is here for. We're trying to protect the interest of the larger general neighborhood and the public. I'd love to see all the work that

the Planning staff has done. We often on a number of projects have given the staff guidance and let them work with the applicant in developing a project that is suitable for everyone. We've seen conditions and guidelines. If the Board can give a little bit more information today to help this process move forward, that's what I would love to achieve.

Lynn Deedler, Board Member

Board Member Bush, would you put numbers to that recommendation as far as square footages?

Lars Langberg, Chair

We had a discussion and a recommendation in our previous meeting about a square footage for the overall house, so we can go back to that.

Cary Bush, Board Member

It was the P7, 4,400 plus the 125%, and what is that, 2,800 square feet?

Melissa Hanley, Vice Chair

2,800 even.

Lars Langberg, Chair

So that would be one; that could be a condition. It's a 2,800 maximum square foot house of conditioned space, so that related to footprint and mass is different obviously than just square footage on two stories, or use this 2,800 total conditioned space based on that P7.

Cary Bush, Board Member

Yes.

Lars Langberg, Chair

So I would be looking to our applicant. We came up with a number that was even higher than that in our discussion previously and it was not adhered to; the building came in bigger than that. So if you weren't here I would think you wouldn't be okay with that one, for example.

Greg Beale, Applicant

Since that meeting there were multiple conversations with Planning and the City Manager, and the numbers used for that, how they were used, and the period used for that, were not consistent with their interpretations of that. When I left that meeting I didn't know what was decided or not. I contacted Planning, they had to rewatch and talk to chair at the time, Ted Luthin, and figure out what was decided during that meeting. So what was decided during that management was less than clear.

Kari Svanstrom, Planning Director

Greg, could you please go up to the microphone? And I put up a slide summarizing the January 5th meeting and what the Board determined at that time.

Greg Beale, Applicant

I don't know if you want me to repeat that or not, but for the record what I said is that the decision at that meeting was unclear. I had to follow up with Planning and they didn't have an answer; they had to look at the videos and talk to the Chair to figure it out, and the numbers of homes used to figure that out were not the same as what was later discussed and realizing flaws in that as well as the area used for that, not to mention the fact that averages is not part of what M8 says either, at all.

Lars Langberg, Chair

Yes, it's a conundrum in terms of the language of the subdivision, so there's no max or the language is very vague in a sense, and we've already said that what they propose does not exceed other homes, so they're within their right, so we're still trying to come up with a better project or a more appropriate project for everyone, but that's still appealable certainly, or it doesn't seem like where they want to be.

Melissa Hanley, Vice Chair

I'd also like to put out there that you've undersized your ADU; you've got 200 more square feet that you can play with in the ADU. Perhaps there is some give and pull there. Instead of being 800 square feet you go up to the full 1,000 that you're entitled by right to have, and if we can see the main residence get much closer to that 3,050 square foot conditioned space, I feel like those are the boundaries that we can set for them at this point.

Christine Level, Board Member

What I can see right now is we've got a proposal for just under 4,000 square feet, but we've got 3,000 and 1,000, and you could reduce the massing of the huge building and make it more compatible two buildings; the lot is bigger and they would look like they fit into the neighborhood. It's going to require a redesign. I think other problems that are associated with this site is the over build-out to the building envelope, so if we could reduce the massing then we could deal with the cutback on the retaining wall into the area we're not supposed to grade, we could deal with the tree issue, and it even says in this P7 that the ADU can be attached. I mean there is a lot of opportunity in that P7 to build out, and if you have these special rooms that are meditation and stuff, it would be kind of nice to have them in another building, or separate. I see an opportunity here; I don't know how to put that into a proposal. Maybe one of you guys, if you like it, you can think of some language.

Lars Langberg, Chair

The challenge is that we've already given direction for a smaller building and it didn't come down to what is now being discussed, so is that just a nonstarter? Part of me says we approve or deny as is. We can make suggestions, but the square footage seems like a nonstarter given what has been presented to us over the course of this project. We gave recommendations and they made good efforts to reduce, but they did not get to the suggestion before or what is being said right now.

Melissa Hanley, Vice Chair

The mass is (inaudible), we're just going back and forth. It's basically the same (inaudible).

Christine Level, Board Member

That's the issue; it's still the mass

Lars Langberg, Chair

The mass hasn't changed, right.

Christine Level, Board Member

It really needs a rethink and a redesign, so now I'm going to go back to making a motion to just deny.

Board Member Level moved to deny the application as submitted.

Lars Langberg, Chair

There's a motion on the table, I guess once again, to deny the application as submitted. I assume we can repeat ourselves, right?

Kari Svanstrom, Planning Director

Yes, you can make as many motions as you want. I will note if there is an actual motion on the table we will need to know from you what the findings for denial are, and staff will need to draft those up. Maybe I should wait to see if the motion is seconded or not, but there will be some specific instructions on how to do that before you make a final decision.

Christine Level, Board Member

Does that occur in the discussion then? That seems like that would make sense.

Kari Svanstrom, Planning Director

Yes, we can talk about that in the discussion. We'll ask the City Attorney to address that.

Lars Langberg, Chair

So we have a motion on the table from Board Member Level to deny the application as submitted. Do we have a second?

Board Member Deedler seconded the motion.

Lars Langberg, Chair

We have a motion and a second to deny the application. Any discussion on the motion?

Kari Svanstrom, Planning Director

If I can start off with how we would actually do this.

Lars Langberg, Chair

I'd actually like to say something before that. To me, though I don't agree with the size of the project and it has some issues, it still meets enough of our design guidelines, and whether it's taken them three months or three years I don't think denial is the proper decision. I can vote, as we all would, on the motion, but as far as my discussion goes, I guess I would hold hope or trust that there's been enough comments to the applicant and the owners that this isn't the right project to get built onsite, but it's close enough, so to speak, and it meets enough of the requirements, and the language of the M8 is vague, and it meets the subdivision requirements, and the Planning Department over here has agreed with a lot of that, that I don't think that's the proper direction.

Cary Bush, Board Member

I would also agree with that.

Melissa Hanley, Vice Chair

I agree.

Lars Langberg, Chair

So we could take a vote, and we don't even have to go to what you were just saying. The protocol—and the City Attorney could correct me—is to vote. If it's denied, then we get to talk about the findings, right? So we can move to a vote on this motion, but is there any other discussion?

Christine Level, Board Member

The intent of the denial is simply to allow the applicant to appeal. When you look at their letters from their attorneys, they're all queued up to do so. The letter that I got from the attorney gives me the impression that there's no intent whatsoever to reduce the size of the building. I mean it was pretty aggressive. The impression that I have from the attorney

letter and their input is I don't feel confident that if we go back and say will you redesign that we're not just going to be back here again with the same thing and more attorneys letters telling us that we're going to be responsible for paying the money and all the other stuff that was in that letter. I totally agree with you guys, and I don't feel super happy about this denial, because I see lots of opportunities for a really nice project; I just don't know if the will exists. Additionally, it does give the applicant an opportunity to just appeal and they can maybe get everything that they want based on the appeal.

Lars Langberg, Chair

That's a good comment. You could just turn it the other way and say if we give them approval we're doing it with an invitation to design a better project. If we deny, they're either just walking away or they're going to a legal process. To me, that's less productive and optimistic in a way of how this process could go. There are two ways to look at it.

Christine Level, Board Member

But if they have no intention of reducing the massing, then we're just going to do another round of this.

Lars Langberg, Chair

And it's a valid concern, given that they didn't get to the square footage targets that we recommended. They may never get to that, or want to get to that, but we don't know that. So we still have a motion on the table. Any other discussion?

Lynn Deedler, Board Member

I think you stated it quite eloquently that they had their chance and it didn't work out, and I just want to repeat what the two of you have just said, that it seems so much cleaner to get a fresh start rather than trying to put together in detail the number of suggestions that make a good house for this lot.

Melissa Hanley, Vice Chair

I would like to echo Gregory's comments about the lack of clarity from the last meetings. I did watch all those videos and I came away with questions too about what happens, so I appreciate they've been given an opportunity to resubmit and we're not able to give a blanket approval on this submission. I want to assume best intent of the applicant to do a really great project, and I think if we can give them some guidelines that would meet approval. I suggest we give them every opportunity to do that without giving their money to lawyers, so I would like to try to come to some meaningful direction for them.

Kari Svanstrom, Planning Director

I do want to let our City Attorney speak. Because of what I had brought up before about the need for findings, I think we need to hear from him.

Lawrence McLaughlin, City Attorney

Board Members, if you're going to make a motion to deny, and if the Board supports that motion, then you're going to have to make findings of denial. There are no proposed findings of denial in the staff report, the staff report only contains proposed findings for approval, so the normal procedure would be to take a vote to see if there is sufficient support for a denial, and then continue the matter for staff to come back with proposed findings. An alternative to that if you wanted to take final action this evening would be to craft findings now as you sit and then make a motion with specific findings. You're going to have to have findings for denial if there is majority support to deny it. If there is not, then the other options are, as we were just starting to talk about, you can task staff from comments made now or more in this meeting to come back with proposed conditions of

approval which are revised, or you can craft your own conditions of approval, which the Planning Director indicated could be appealed by the applicant.

Lars Langberg, Chair

Thank you, Larry. It seems like we shouldn't vote on the motion on the table and come to that place that Larry is saying. Are we denying it, therefore we figure out why?

Lawrence McLaughlin, City Attorney

Chair, you could take a straw vote. That's what we typically do at Council meetings. If there are votes for denial, then I recommend the Board go through its conditions, the findings that they want to make in support of denial, and then direct staff to draft those.

Lars Langberg, Chair

Got it. That makes sense. Straw vote.

Kari Svanstrom, Planning Director

And Larry, if they do a straw vote, which I think they already did preliminarily and there was not support for the motion, should we then do a formal vote on the motion on the table to deny?

Lawrence McLaughlin, City Attorney

Yes, you might as well show that it's defeated if that's where it's going to go. Then I think you're faced with the other options I was starting to outline, either start talking about conditions of approval for the applicant to consider, or give general guidance to staff to come back at a future meeting with revised conditions of approval. You need some definition this evening, unless you just choose to continue it.

Lars Langberg, Chair

So we have a motion on the table to deny the application. Show of hands of who supports that motion. (No hands raised.) Who would vote yes for that motion is another way to put it?

Kari Svanstrom, Planning Director

This is who would vote to deny the project is the motion on the table.

(No hands raised.)

Lynn Deedler, Board Member

I like the idea of staff doing the final summary of our concerns.

Lars Langberg, Chair

I think we're going to be doing that anyway. Whether we approve or deny it, there will be additional conditions if we approve it or reasons for denial if we deny it, and we will be relying on staff to help us with that. But at the moment we have a motion on the table to deny the application, so I would like a show of hands at this table who would vote yes to deny the application if it went to a formal vote.

(No hands raised.)

Lars Langberg, Chair

So nobody. Now we should go ahead and do a formal vote on the motion to deny the application as submitted.

Kari Svanstrom, Planning Director

A yes vote would be to deny the project. A no would be to take that motion off the table.

AYES: None

NOES: Chair Langberg, Vice Chair Hanley, and Board Members Bush, Deedler, and Level

ABSTAIN: None

ABSENT: None.

Lars Langberg, Chair

So we've had two motions to deny the application that have not proceeded, so perhaps we could try one that approves the application and then we could discuss that.

Cary Bush, Board Member

In efforts to move forward we've looked at a lot of statistics, we've seen that 125% of P7 at 240 square feet; it's 3,050 square feet. I'd like to make that my personal recommendation for the project to move forward. That's a very good impasse to move this project forward. It allows the client to do what they want. If they do what they will with that information, I think it's hopefully useful information for the client.

Lars Langberg, Chair

That's not a motion, but what would be one of the conditions of approval. It's a start of discussion for conditions of approval.

Lynn Deedler, Board Member

Can you repeat the square footage and if for conditioned or unconditioned?

Cary Bush, Board Member

Yes, it would be for conditioned space. It was 3,050 square feet, which is 125% of the 240 square feet designed by the P7 ordinance.

Kari Svanstrom, Planning Director

It's actually the M8 ordinance; P7 is the ADU. And just to clarify, this was the recommendation the Board gave to staff and the applicant on January 5, 2022.

Cary Bush, Board Member

Right.

Lars Langberg, Chair

So that's a potential condition of approval.

Christine Level, Board Member

I think while we're at it we should give a number for the unconditioned space also.

Kari Svanstrom, Planning Director

I'll bring up the chart of where the project is at now.

Christine Level, Board Member

In part of the conditions what I'd like to see is a reduction of the massing.

Lars Langberg, Chair

This is important, because the footprint is only 3,343 square feet, so it's only a little bit more than the conditioned space we were just talking about, but it's on two stories.

Christine Level, Board Member

Is that conditioned space, or is that like everything, like the entire footprint?

Lars Langberg, Chair

That's unconditioned and conditioned; that's the footprint. 3,343 square feet is the current proposed footprint.

Christine Level, Board Member

One of the things we could possibly discuss is the 3,050 square feet within a certain footprint.

Lars Langberg, Chair

There is a note here too that has that footprint number includes decks and porches, not just the house footprint; it's the whole building.

Christine Level, Board Member

Right, but if we were to agree to the 3,050, but also condition a footprint for that so that we can reduce the massing, so some of the conditioned space would then... Well, and the footprint and the decks would be upstairs and downstairs.

Lars Langberg, Chair

Do you have a proposal of what that might be, because we kind of have to guess?

Christine Level, Board Member

You gave a size of a garage. They want a two-car garage with parking for probably it looked like a recreational vehicle. What would the square footage be for that?

Unidentified Male

1,288 square feet.

Kari Svanstrom, Planning Director

The current 1,288 is the unconditioned space that does include the three parking spaces within the garage, and Greg, I don't know if you're able to provide us with the square footage of the garage total? The other areas that are unconditioned, there is a workshop and a storage space, those are the ones that are at the front of the house as well, and then right underneath the entry.

Christine Level, Board Member

A typical garage, if you were really generous would be 24x24. There are no dimensions on here that allow you to know what anything is, and then you've got the garage in the back, so what would a three-car garage square footage be? 865 plus the workshop, which is 16x16.

Greg Beale, Applicant

(Inaudible).

Lynn Deedler, Board Member

I'd suggest a 1,000 square foot maximum, which is the equivalent of a large four-car garage, and how this is used would be up to them.

Lars Langberg, Chair

So it's like 3,050 square feet conditioned and 1,000 square feet unconditioned.

Lynn Deedler, Board Member

Unconditioned, yes.

Lars Langberg, Chair

While these guys are doing some math, Board Member Deedler, you mentioned the mass related to all the porches and trellises and so on. Is there any condition that could be given to those kinds of elements?

Lynn Deedler, Board Member

It would be very hard to condition that, because the balcony is very wide, the decks outside are very large, the stairs, these are all separate things, and so I'd say just cut that mass in half.

Christine Level, Board Member

When we're talking about the great wall of asphalt, which is the 85 feet, that included the covered porch, so some of that could be conditioned too so you just don't have this long expanse. I like the 1,000 square feet; that's reasonable.

Lars Langberg, Chair

Now we're close to almost 4,000 conditioned and 1,288 unconditioned, so that's what is proposed now, so unconditioned space would shrink a little from what they proposed, but the conditioned space would shrink greatly.

Lynn Deedler, Board Member

What's the number for the conditioned space currently?

Lars Langberg, Chair

Currently it's 3,977.

Lynn Deedler, Board Member

That sounds way too high to me.

Christine Level, Board Member

What we gave guidelines for was 3,050 in our January 2022 meeting.

Lynn Deedler, Board Member

I'd like to see it go down to like 2,800.

Christine Level, Board Member

But in January 2022 we did vote for this number, so I think we have to stick with this number.

Lynn Deedler, Board Member

With your suggestion about including the ADU, they seem like they have a lot of space to take care of all their needs.

Christine Level, Board Member

The ADU makes up that difference for their other use that they wanted.

Lynn Deedler, Board Member

Yes, but it's still getting kind of big.

Christine Level, Board Member

But it makes two separate buildings; there's some bulk downgrade.

Lynn Deedler, Board Member

It's a good idea; it just still seems a little big.

Christine Level, Board Member

Well, they have to build the ADU anyway, but they don't have to rent it out, they can use it for their own purposes. It just has to have a kitchen however you define that; an under-counter refrigerator and countertop burner, but not gas.

Lynn Deedler, Board Member

But then they have guest bedrooms and a big living room to turn into whatever they want.

Christine Level, Board Member

There's nothing defining the design of the ADU, it just has to have a kitchen. It could be one big room. It gives them 4,000 square feet.

Lars Langberg, Chair

Vice Chair Hanley and Member Bush were crunching some numbers. Do you have any other thoughts about these numbers that are being bandied about?

Cary Bush, Board Member

We looked at conditioned space as the recommended 3,050 square feet, and the unconditioned space at 1,000 square feet.

Lars Langberg, Chair

So maybe before we go into any further discussion of other conditions we should put that to our applicant and see if that's a no-go or not.

Melissa Hanley, Vice Chair

The math on garages 1 and 2, workshop and storage, total square footage is 1,098 square feet as currently designed, so 1,100-ish of unconditioned space.

Lars Langberg, Chair

So there is another 200 somewhere in this project according to the numbers.

Melissa Hanley, Vice Chair

I don't know if they're counting the hall or what they're doing there, but yes.

Lars Langberg, Chair

What do you think, Gregory?

Greg Beale, Applicant

I think Board Member Bush said something a minute ago about what the Design Review Board's purpose is, something about protecting public interest. And this does relate to the question at hand. I think that is actually really important to this comment and what you're deciding on. What's left out of that are the rights of the property owner, and I think that is really imbalanced and inappropriate, so what I can tell you right now, and I'm happy to speak with the clients, but I don't understand or see any reasoning behind this, "Oh, I kind of like it like this," and so there's no way that we would accept that. I haven't heard anything justifiable or acceptance of the fact that there is more data since that meeting. A lot has gone on in the last year that nothing is being talked about in this consideration.

You're going back a year, so all the work we've been doing and all the meetings with Planning and the City Attorney isn't even part of your conversation, which tells me that my client just spent tens of thousands of dollars for nothing if you're not even considering the new information. That was probably more than you were looking for, Chair Langberg, but thank you.

Lars Langberg, Chair

Not at all, but I think the very salient thing that has happened in the year is that the design of the building didn't change much.

Greg Beale, Applicant

It did.

Lars Langberg, Chair

It reduced in some square footage. The mass of the building didn't change much.

Greg Beale, Applicant

Right.

Lars Langberg, Chair

So that is a very important point that it seems like you were not addressing in a way. You're just using data to back up. You're using data the way you want to, which is how we all use data, to justify the design you come up with.

Christine Level, Board Member

Your data also goes against you, because if you take the average of your data...

Greg Beale, Applicant

Average.

Christine Level, Board Member

Yeah.

Greg Beale, Applicant

Average has no place in this conversation.

Christine Level, Board Member

No, no, this is a legal argument. That belongs between the lawyers, but if we deny, then you can go have that argument.

Greg Beale, Applicant

With the direction you guys are going, that's exactly what's going to be happening.

Christine Level, Board Member

I would disagree with her interpretation, but I'm not going to get into her letter. I marked it up, but that's a discussion not for a design review board but for attorneys.

Greg Beale, Applicant

You're making decisions...

Christine Level, Board Member

We're not a (inaudible).

Greg Beale, Applicant

They're not a separate.

Christine Level, Board Member

We're not lawyers.

Greg Beale, Applicant

I'm well aware... We had to hire...

Cary Bush, Board Member

Excuse me. Gregory, you addressed me. You addressed me and you asked me about where we're getting these numbers. They were clear through this process what the numbers are, and I have five of your client's neighbors who took their time and came down here to express their concern, and the one unifying concern is the size of the structure, not the fact that they don't want them as neighbors, not the fact that they don't love the project, it's the size of the project. We're listening to the people at large. That's the comment here. If you can't take that information back and make a better project out of it for everyone's best interest, then that's your decision. We're trying to help you.

Greg Beale, Applicant

So long as it's in balance with the client's rights as a property owner, which I'm not hearing any of.

Kari Svanstrom, Planning Director

If I may, if we're getting into a property rights discussion, that isn't the purview of the DRB. Larry, can you help provide some guidance on the legal aspects of what the DRB should be doing given this conversation?

Lawrence McLaughlin, City Attorney

At this point it sounds like the applicant is already telling you that your potential conditions of approval which you were previously discussing a few minutes ago are not going to be acceptable, so I would think at this point it would be back to having a motion that would direct staff to prepare findings of denial and return to either the next meeting or a special meeting with the findings of denial for you to hold a formal vote to deny the project.

Kari Svanstrom, Planning Director

The other possibility I think of is to go ahead and approve the project with these conditions, in which case the applicant could appeal that, but there would be an approval for them to at least take some time to think about, if they wish.

Lawrence McLaughlin, City Attorney

Yes, either way is a path to an appeal.

Lars Langberg, Chair

That's what it sounds like, but I'm ever the optimist. If we approve it with even this one condition it gives an avenue of non-appeal but just redesign to make a better project, even if Gregory wants to shake his head any time I open my mouth, but there is that possibility both to the designer and to the owners to just take our approval and our conditions and work with that.

Lawrence McLaughlin, City Attorney

If it's as simple as changing the square footage of the conditioned and non-conditioned space, I think staff could craft revised conditions of approval for this evening and you could vote to approve that. If the applicant does not wish to accept it, they can appeal.

Lars Langberg, Chair

Given all that was just said we could do a third try on the denial and probably I guess pass it this time, or we could do what I suggested and just go the other way and approve it with that condition, which I think we're all in agreement in terms of square footage.

Lawrence McLaughlin, City Attorney

If you vote to deny this evening, you're going to have to have findings for denial. You have no findings in the staff report.

Lars Langberg, Chair

I hear that, Larry, thank you. I'm just proposing the other option.

Christine Level, Board Member

I think we're in agreement on the other option.

Melissa Hanley, Vice Chair

Yes.

Cary Bush, Board Member

I think so too.

Lars Langberg, Chair

Okay. Are there any other conditions that we would want to entertain, or with just that?

Christine Level, Board Member

Where we were at before this interruption was just discussing the bulk. So we've got 3,050 square feet of conditioned space, and so do we want to discuss limiting the footprint within that? Right now we have a building that has living space upstairs and downstairs, so you could reduce the bulk of the building by having the upstairs and downstairs. It's already kind of pre-designed to have sort of an upper under the whole thing, and if we reduce the footprint. I think that would be part of the conditions.

Lars Langberg, Chair

And Member Deedler, you said earlier give them 3,050 and 1,000 and let them do what they want. But now are we suggesting that it's within two stories that is...

Lynn Deedler, Board Member

No, I don't want to (inaudible).

Cary Bush, Board Member

I don't want to place any further conditions on this. It's 3,050 and maybe even 1,100 for the garage, we calculated up, that's the consolation there, so I think it seems like a good way for a possible redesign.

Kari Svanstrom, Planning Director

May I ask one additional question? I believe Vice Chair Hanley suggested earlier that the ADU could go up to 1,000 square feet, so that would be something I'd ask the Board to give us direction on. The other is—and how the Board would feel about it, because it does go to

massing again—if it remains detached at 1,000 square feet versus if they wanted to attach it to the house.

Christine Level, Board Member

Kari, the 1,000 square feet goes without saying, right?

Kari Svanstrom, Planning Director

That is correct. They could do that, yes.

Christine Level, Board Member

I would like to see two different buildings.

Kari Svanstrom, Planning Director

That's not a part of your packet, so because of State law that is (inaudible).

Lars Langberg, Chair

It's up to them, so I don't think we go there.

Melissa Hanley, Vice Chair

I'm pushing hard for this motion for approval with the condition, and then if they want to appeal it they can tell the City Council they can't live in 4,000 square feet.

Vice Chair Hanley moved to approve the application, with the condition that the project be resubmitted with conditioned space not in excess of 3,050 square feet and unconditioned space not in excess of 1,100 square feet.

Board Member Level seconded the motion.

Lars Langberg, Chair

One clarification, you said the project is resubmitted. Are we asking for it to come here now? That's a continuation, I think. Because if it's just an approval with a condition, then the staff can take it from there.

Kari Svanstrom, Planning Director

Correct.

Lawrence McLaughlin, City Attorney

Right.

Lars Langberg, Chair

And then unless the design through its permit process comes back radically different it might come back to us, but that's not an actual step (inaudible).

Kari Svanstrom, Planning Director

Right, and what we normally do as staff on that is we can and do often consult the Chair if we have a question about it.

Christine Level, Board Member

I think we also have to add in that condition, the result of the variance discussion, in case they change something, so Condition 3.

Kari Svanstrom, Planning Director

Oh, just the statement that approval would not be valid unless a variance is approved by the Planning Commission. Yes, please do add that, just for clarification.

Melissa Hanley, Vice Chair

I will amend my motion to include the condition that the variance needs to be approved.

Kari Svanstrom, Planning Director

May I read the actual language that we'd like? "This approval shall not be valid unless and until the variance is approved by the Planning Commission."

Lars Langberg, Chair

And the term "resubmitted" would be struck from the motion.

Melissa Hanley, Vice Chair

Yes.

Lars Langberg, Chair

So we have a motion and a second. Board Member Level did second it. Any further discussion before we take a vote?

Lynn Deedler, Board Member

I'd like to just round it down a little bit to 1,000 and 3,000 square feet. It's creeping up and it's still pretty big.

Melissa Hanley, Vice Chair

It's not the instruction they were given though. I think we have to be consistent here. This Board, before you and I joined, made some instructions and some determinations, and I think we have to honor what the Board did.

Lars Langberg, Chair

Thanks, Lynn. Any other discussion? Okay, let's call the question.

AYES: Chair Langberg, Vice Chair Hanley, and Board Members Bush, Deedler, and Level

NOES: None

ABSTAIN: None

ABSENT: None

8. SUBCOMMITTEE UPDATES

None.

9. ADJOURNMENT: Chair Langberg adjourned the meeting at 6:34 p.m. The next regularly scheduled Tree/Design Review Board meeting will be held on Tuesday, April 25, 2023 at 3:30 P.M.