



# **TOWN OF FAIRFAX**

## **STAFF REPORT**

### **December 5, 2018**

**TO:** Mayor and Town Council

**FROM:** Ben Berto, Director of Planning and Building Services *GB*

**SUBJECT:** Discuss/consider recommendations from Planning Commission regarding reduction in maximum home size

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CONTINUED FROM NOVEMBER COUNCIL MEETING

#### **RECOMMENDATION**

Consider recommendations from Planning Commission and provide direction to staff.

#### **BACKGROUND**

A Council goal for 2018 is to "Amend zoning code to reduce maximum home size." In April 2018, the Council referred the matter to the Planning Commission for consideration. The Planning Commission formally reviewed possible changes to the Zoning Ordinance to reduce the maximum allowable house size at their May 17, June 21, July 19, and September 20, 2018 meetings. With the exception of excluding the area of one 120-square foot accessory building (see discussion below), no consensus emerged from those discussions.

#### **DISCUSSION**

The Planning Commission (PC) discussed the following major topics and issues relating to reducing the maximum allowable residential size:

##### **No PC Consensus on Reducing Maximum Residential Size**

Some Commissioners believed there should be no reduction in maximum home sizes. Others would consider or recommend a reduction to the 3,500-4,000 square foot range.

##### **Issues Relating to Reducing Maximum Residential Size Limit**

The Planning Commission considered and discussed the following factors and issues.

- Properties would be rendered legal non-conforming with respect to maximum residence size.
  - Current zoning provisions in Chapter 17.16 Non-Conforming Uses and Structures are confusing and subject to varying interpretations. For example, §17.016.070 references two different triggers for "non-conforming" provisions: work involving 50% of floor area, and work that reaches 50% percent of cost of restoration versus the entire structure. How each of those is determined is not stated in the zoning code.

- Chapter 17.16 would need to be extensively rewritten to clarify how to treat properties that would be rendered legal non-conforming with respect to maximum allowable structural floor area.
  - Extensive, detailed records would need to be researched and kept regarding which properties are affected and, therefore, qualify for special consideration. This would be a new administrative challenge on an ongoing basis.
- It is unclear what problem(s) a lower maximum residential square footage limit would address.
  - Threats to the Town's character are vaguely articulated.
  - The character of the Town remains much as it has been for decades.
  - The Town's current array of regulations and policies have avoided significant problems with residential size.
  - Newer, even larger homes are generally significantly more energy efficient than older, smaller homes.
  - Demand for ancillary, traffic-generating residential services (gardening, housekeeping, nannies, etc.) doesn't appear to be directly connected to home size.
  - A smaller maximum residence size cap will not address or assist with housing affordability or traffic issues.
- The Town's current regulations and policies have served the Town well.
  - Current maximum floor area, floor area ratio, and coverage limits appear to adequately govern the size of a residence relative to a lot. All but the largest, least-constrained properties are precluded from building large residences.
  - Large homes serve large and/or multi-generational families.
  - Based on Assessor's records, no property in Fairfax exceeds the current maximum floor area limit of 5,000 sq. ft. Therefore, as things stand no variances involving the need for 'special circumstances', or new legal non-conforming provisions are necessary for one-for-one remodels or limited expansions.
  - Design Review, Hillside Land Development, Variance, and Use Permit requirements adequately address potential development-related issues including mass, bulk, visibility, grading, runoff, etc.
- Other approaches besides reducing maximum residence size could be effective in controlling/limiting the potential impacts of large residences.
  - Residences above a certain size could be discouraged, with heightened review criteria such as requiring more energy efficient standards.
- The Town has previously considered maximum house size, which resulted in the current 5,000 square-foot maximum floor area and floor area ratio limits.

- The Town held multiple meetings on maximum house size between 2000 and 2002. In 2002, the Town adopted the current maximum size of 5,000 sq. ft.
- A reduction in maximum home size would impact dozens to hundreds of homes depending on the reduced maximum size selected. County Assessor's data on existing home sizes is incomplete (garages cannot be correlated to residential homes sizes, and accessory structures, of which Fairfax has hundreds, are not counted by the County at all) Therefore the figures below only serve for rough comparison purposes. With those caveats, the approximate number of Fairfax single family dwellings/duplexes falling into various size categories (or larger) are as follows:
  - ▶ Equal to or greater than 5,000 square feet (sfd/duplex primary structures) 0
  - ▶ Equal to or greater than 4,500 square feet (sfd/duplex primary structures) 4
  - ▶ Equal to or greater than 4,000 square feet (sfd/duplex primary structures) 10
  - ▶ Equal to or greater than 3,500 square feet (sfd/duplex primary structures) 28
  - ▶ Equal to or greater than 3,000 square feet (sfd/duplex primary structures) 72
  - ▶ Equal to or greater than 2,500 square feet (sfd/duplex primary structures) 241
  - ▶ Equal to or greater than 2,000 square feet (sfd/duplex primary structures) 518
- Residents in attendance at the Planning Commission meeting where the potential maximum house size reduction was widely noticed were largely opposed to a reduction in maximum allowable floor area.
  - Residents' concerns included: the impact of such a program on property values, the impact on their ability to expand or remodel their homes, impacts on large or multigenerational families, lack of clarity on what threat a maximum house size reduction would address, and new residences are more energy efficient than smaller older residences.
- Potential rationales for reducing maximum residential square footage include:
  - The majority of existing houses are small, concerns about greenhouse gas emission from using more net overall energy, building materials, and more bedrooms equal more parking and vehicle trips.

#### Planning Commission Consensus

The Commission reached consensus in two key areas:

- Up to a 120 square foot accessory building (shed) that is: not served by any utilities, non-conditioned, and a maximum of 7 feet in height should not count against the maximum residential floor area size limit.
- Zoning provisions allowing additional floor area for residences with green building technology (§17.136.040 (B)-(D)) are no longer necessary. California Energy Codes

currently contain numerous provisions applicable to new residences and major remodels in that largely address energy efficiency requirements.

### Options

The Planning Commission came up with five options regarding what to do about maximum house size. These are listed below, along with rationales and concerns associated with each option.

1. Make no changes to the Zoning Ordinance.

*Discussion:* Existing maximum house size regulations appear to be working well to prevent the construction of out-of-scale residences.

2. Discourage residential construction (additions or new buildings) above a certain total floor area (i.e., max home size) by establishing additional requirements for such structures.

*Discussion:* By discouraging additions or new structures above a certain net total square footage, the Town would avoid creating a cohort of properties that would be "legal non-conforming." Additional requirements/standards could be developed regarding such issues as energy efficiency, minimal visibility, runoff, grading, and/or fire safety that would have to be met for residences to exceed a certain total square footage. For example, the County of Marin currently requires larger buildings to be increasingly energy efficient as they increase in size. This could be adjusted and adopted locally to ensure that large residences would have to be considerably 'greener' (more energy efficient) than typical smaller new houses.

3. Reduce the overall single family residence/duplex maximum size cap, but allow owners of property with structures that become "legal non-conforming" to remodel, alter, or potentially expand such structures.

*Discussion:* Many existing homes would become legal non-conforming uses should they exceed a reduced maximum home size. Allowing owners of new "legally nonconforming" properties to remodel or possibly expand (within limits) floor area would help address the "legal non-conforming" issue. However, this would require creating different standards for existing homes and new development. It would probably be extremely complicated and confusing for homeowners to understand the requirements due to the complexity of the existing zoning code. Significant staff time would be needed to draft zoning code amendments to implement this approach.

4. Apply a lower maximum floor area limit only to new construction on undeveloped residentially-zoned lots.

*Discussion:* Creating a bifurcated maximum residential size system that splits how certain properties are classified based on whether they were developed before or after a certain date would allow owners of existing developed properties to avoid being designated “legal non-conforming”. The Town would have to create a list of undeveloped properties and apply the new reduced maximum floor area limit to only those properties. The maximum home size would need standards governing what applies and doesn’t apply to the square footage limit (e.g., accessory structures under 120 sq. ft., garages).

5. Retain outside professional assistance to explore a process for determining the best fit for Fairfax concerning maximum house size regulations.

*Discussion:* The Planning Commission held five hearings on this topic, including one attended by over fifty people. Depending on the Council’s direction and the potential impact on limited staff resources, the PC indicated it may be prudent to retain an outside professional to assist in further articulating options, surveying the public, conducting workshops, and developing options for consideration.

Based on the Council’s direction, staff will return to the Council at a future meeting.

#### **FISCAL IMPACT**

None at this time.