



**TOWN OF PORTOLA VALLEY  
REGULAR PLANNING COMMISSION MEETING  
Wednesday, November 2, 2016 – 7:00 p.m.  
Council Chambers (Historic Schoolhouse)  
765 Portola Road, Portola Valley, CA 94028**

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**7:00 PM – REGULAR AGENDA**

1. Call to Order:
  2. Roll Call: Commissioners McKitterick, Targ, Von Feldt, Vice-Chair Gilbert, Chair Hasko
  3. Oral Communications:  

Persons wishing to address the Commission on any subject, not on the agenda, may do so now. Please note, however, the Commission is not able to undertake extended discussion or action tonight on items not on the agenda.
  4. New Business:
    - a. **Study Session on Accessory Dwelling Units**
  5. Commission, Staff, Committee Reports and Recommendations:
  6. Approval of Minutes: **September 7, 2016** and **October 19, 2016**
  7. Adjournment:
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**ASSISTANCE FOR PERSONS WITH DISABILITIES**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Assistant Planner at 650-851-1700 ext. 211. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting.

**AVAILABILITY OF INFORMATION**

Any writing or documents provided to a majority of the Town Council or Commissions regarding any item on this agenda will be made available for public inspection at Town Hall located 765 Portola Road, Portola Valley, CA during normal business hours.

Copies of all agenda reports and supporting data are available for viewing and inspection at Town Hall and at the Portola Valley branch of the San Mateo County Library located at Town Center.

**PUBLIC HEARINGS**

Public Hearings provide the general public and interested parties an opportunity to provide testimony on these items. If you challenge a proposed action(s) in court, you

may be limited to raising only those issues you or someone else raised at the Public Hearing(s) described later in this agenda, or in written correspondence delivered to the Planning Commission at, or prior to, the Public Hearing(s).

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This Notice is posted in compliance with the Government Code of the State of California.

Date: October 28, 2016

CheyAnne Brown  
Planning Technician

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# MEMORANDUM

## TOWN OF PORTOLA VALLEY

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**TO:** Planning Commission

**FROM:** Debbie Pedro, Planning Director  
Arly Cassidy, Associate Planner

**DATE:** November 2, 2016

**RE:** Study Session on Accessory Dwelling Units (ADUs)

### RECOMMENDATION

Staff recommends that the Planning Commission discuss the items below and provide staff with directions on how to amend the Municipal Code to encourage the creation of Accessory Dwelling Units (ADUs) in Portola Valley.

### BACKGROUND

On October 12, 2016, the Council adopted a Housing Options Strategic Plan and directed staff to work with the Planning Commission to amend the Town's existing Second Unit Ordinance as well as create a separate Junior Second Unit Ordinance, for suites within existing homes. Additional background on the discussion can be found in the Council staff report and meeting minutes (Attachment 1). Staff has summarized the existing ordinance and identified areas that could be modified to encourage future second unit construction. A brief summary of recent legislation regarding second units and junior second units is also included. (The terms "second unit" and "accessory dwelling unit" or "ADU" are interchangeable, as are "junior second unit" or "JSU" and "junior accessory dwelling unit" or "junior ADU.")

### DISCUSSION

#### Accessory Dwelling Units (ADUs)

At their meeting, the council approved Recommendation One in the Housing Options Strategic Plan to direct the Planning Commission to review amendments to the Second Unit Ordinance, possibly increasing the maximum allowable size of the second unit and allowing second units on properties smaller than one acre, and to look into a group buy of pre-engineered, preapproved, modular units of various sizes up to 1,000 square feet.

The Town's current ADU or "second unit" ordinance, last modified in January 2015, loosened the restrictions on creation of a second unit. Modifications included staff review for units 750

square feet and under, and the ability to build second units up to 1,000 square feet on parcels two acres or larger in size. The current ordinance is further summarized below.

### Summary of Town of Portola Valley Standards for Second Units

ITEM	REQUIREMENT	THE FINE PRINT
Maximum floor area	750 square feet	<ul style="list-style-type: none"> <li>If your second unit is less than 400 square feet all together, town staff will be responsible for design review approval.</li> <li>If your second unit will be created by converting existing floor space within your home, town staff will be responsible for design review approval unless staff refers the project to the Architectural and Site Control Commission (ASCC).</li> <li>If you plan to build more than 400 square feet of new floor area for your second unit, you will need design approval from the ASCC.</li> <li>You will also need approval of the ASCC if you want to attach the second unit to the main house on your parcel and the resulting structure (including the house and second unit) will have more than 85% of the maximum floor area permitted for your parcel.</li> <li>You cannot exceed the maximum floor area for your parcel; if you have already used all the allowable floor</li> </ul>
Maximum height	18' with 24' max	<ul style="list-style-type: none"> <li>18' limit applies to the distance between the natural ground level, or the building pad if it was excavated (whichever is lower) to the highest part of the building directly above</li> <li>24' maximum height limit applies to the distance between the lowest point of contact with the finished ground surface and the highest point of the building</li> <li>Second units can be up to 28' with a maximum of 34' with the approval of the ASCC</li> </ul>
Parking	1 space for 0-1 bedrooms; 2 spaces for 2+ bedrooms	<ul style="list-style-type: none"> <li>These parking spaces do not have to be covered</li> <li>Parking for second units can be provided as tandem spaces (behind other required parking, such as in a driveway)</li> <li>Parking for second units must be provided in addition to the amount of parking needed for the main house</li> </ul>

Below is a chart showing the limits on 2<sup>nd</sup> units by parcel size:

Parcel Size	<1 acre	1-1.99 acres	2-3.49 acres	>3.5 acres
2 <sup>nd</sup> Units Allowed	Not permitted	750 sq. ft. x 1 unit	1,000 sq. ft. x 1 unit	1,000 sq. ft. x 2 units
# of Residential Lots in PV*	380	657	315	24

\*Approximate numbers

Based on the number of residential parcels in Town that are less than 1 acre (380) and less than 2 acres (657) in size, it appears that crafting ordinance amendments affecting those properties would have the widest reach.

#### Potential modifications to existing ADU ordinance

1. Increase allowable maximum size of ADUs to 1000 SF on 1+ acre properties
2. Allow staff approval of larger units
3. Allow ADUs on lots smaller than 1 acre (Council suggested finding examples of existing legal nonconforming units on smaller lots and use them as models.)
4. Reduce parking requirement
5. Other

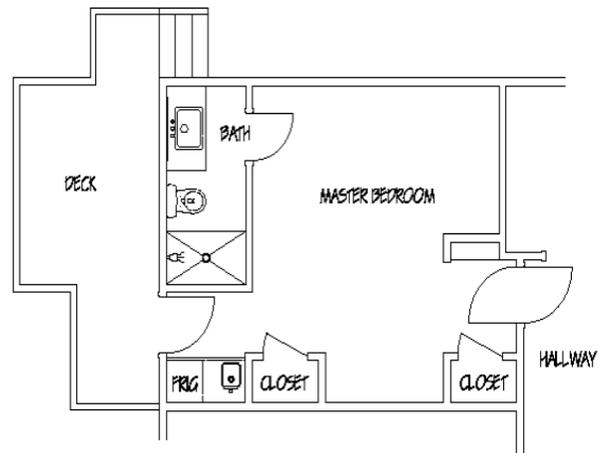
#### New Junior Second Unit (JSU) Ordinance

Junior second units are smaller, less impactful living spaces that would entail conversion of an existing bedroom within a dwelling to create a flexible-private living situation in conjunction with the owner-occupied unit.

Currently, four jurisdictions in Marin County have passed a Junior Second Unit/Accessory Dwelling Unit ordinance: Belvedere, Novato, San Rafael and Tiburon. All four jurisdictions agree on the main descriptive points for junior second units:

- Property must be owner-occupied (main house or junior unit)
- Junior unit cannot be sold separately from house
- Only one junior unit allowed per parcel
- No additional parking is required; some jurisdictions require plans to indicate where on- or off-site parking would be located
- Size range is 150 – 500 square feet (San Rafael has no minimum)
- Efficiency kitchen required and limited to:
  - Sink with maximum 16" width and length, and 1.5" waste line
  - 110-120 volts for appliances or natural/propane gas
  - Food prep counter max of 6 feet
- Separate exterior entrance





Photos and floor plan of an existing junior ADU

Due to the junior unit's creation within an existing home and from an existing building, septic and sprinkler requirements are generally not triggered. If the Planning Commission recommends the adoption of a Junior ADU ordinance, staff can prepare a draft ordinance that is modeled after a Junior ADU ordinance that had been adopted by one of the North Bay cities.

#### State Law ADU Update

Two new laws (AB 2299 and SB 1069) will require all municipalities to update their ADU ordinances by January 1, 2017 with relaxed requirements for ADU applicants. The key provisions of the laws include:

- Applications must be approved or disapproved ministerially within 120 days of being deemed complete
- Jurisdictions may designate zones where ADUs are allowed and may impose physical development standards (height, setbacks, landscaping, etc.)
- Attached units shall not exceed 50% of the existing dwelling, with a max. of 1,200 sq. ft.
- One parking space per unit or bedroom, tandem or in setbacks allowed
- No additional parking may be required if the unit is
  - Within ½ mile of public transit (SamTrans buses)
  - Part of an existing primary residence or an existing accessory structure
- If existing required parking is demolished to create a new ADU, replacement parking may be provided in any configuration (covered, uncovered, tandem, mechanical lifts)
- Must be ministerially approved if
  - ADU is contained w/in existing footprint of home or accessory structure
  - ADU Has independent exterior access
  - Side and rear setbacks are sufficient for fire safety
  - For approved units, no new sprinkler systems or utility connections shall be required
- Exempt from CEQA

A separate law (AB 2406) was passed defining and regulating Junior ADUs if a municipality chooses to allow them. Unit requirements are:

- Up to 500 square feet
- Created from a bedroom in the existing home (not common space)
- Original home or JSU must be owner occupied
- Deed restriction preventing separate sale and unit size
- Door directly connecting to main house
- Efficiency kitchen with sink, cooking facility with appliances that run on standard 120 volt outlets
- Bathroom can be shared with main house
- No parking can be required
- Not reviewed as a new unit for life safety and sewer/water requirements
- Must receive ministerial review within 120 days

In the upcoming weeks, staff will be reviewing and evaluating these new bills and their implications. Copies of the bills are included as Attachments 4-6.

### Additional Housing Types

Modular housing is constructed in sections and inspected off-site, then connected and placed on a foundation on-site. These homes can range from tiny (160 sq. ft.) to large (3,500+ sq. ft.). Planning approval is required, as well as building permits for the foundation and utility connections. One Town Council suggestion included planning pre-approval of specific types, styles and sizes of modular housing, allowing applicants to go straight to a building permit when proposing a pre-approved unit.

Tiny homes<sup>1</sup> are not a specific construction or architecture type. They generally contain the full suite of home functions, with common space, bedroom, bath and kitchen, but at a much smaller scale than existing housing stock. The term “tiny home” is loose and refers to the general size; it can include permanent homes, factory-built/modular housing, manufactured homes, RVs, park trailers, and camping cabins. One central distinction within this subset of housing is between homes that sit on a traditional foundation, and those that are mounted on a chassis and are relatively mobile:

- Built onto a permanent foundation
  - Includes conventional construction, modular and manufactured housing
  - Requires some level of building permit and inspections
- On trailers
  - Includes RVs, park trailers, camping cabins
  - 400 sq. ft. or less gross FA
  - No building permit or inspection, not under Title 24

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<sup>1</sup> California Department of Housing and Community Development (HCD). Information Bulletin 2016-01: Tiny Homes. February 4, 2016.

Housing built on a chassis is generally not considered permanent housing, though there are steps that can be taken with some of these housing types to be viewed as more permanent (ex: mobile homes which have removed their wheels and axils and been tied down).



Tiny home on a chassis



Tiny home on a foundation



Modular home on a foundation

### Attachments

1. Staff report and minutes from October 12, 2016 Council meeting
2. Ordinance 2015-408, Second Unit Ordinance
3. Sample Junior Second Unit (JSU) Ordinance (Town of Tiburon)
4. AB 2299 Land use; housing; 2<sup>nd</sup> units
5. SB 1069 Land use; zoning
6. AB 2406 Housing: junior accessory dwelling units



# MEMORANDUM

## TOWN OF PORTOLA VALLEY

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**TO:** Town Council

**FROM:** Jeremy Dennis, Town Manager  
Debbie Pedro, Planning Director

**DATE:** October 12, 2016

**RE:** Draft Housing Options Strategic Plan - Follow-Up Discussion

### RECOMMENDATION

Staff recommends adoption of a draft housing options strategic plan which contains recommendations to:

- Create a list of programs and concepts for further review by Town staff, commissions and committees, as listed in the staff report
- Adopt a public outreach plan
- Adopt a timetable for research and input
- Create an ad hoc committee to explore potential housing options to be built in Portola Valley
- Postpone completion of the housing impact fee study

### BACKGROUND

On July 13<sup>th</sup>, 2016, the Town Council reviewed a staff report requesting direction on “next steps” to begin a conversation about the impacts of the ongoing housing crisis in Portola Valley, and the Town’s part in addressing its impact on the community (Attachment 1). The July 13<sup>th</sup> staff report provided a summary of the Town staff’s understanding of the local impacts of the regional housing crisis:

1. Talented education professionals and public safety officials are moving away as they cannot afford to live in or near Town
2. Seniors or “empty nesters” who wish to downsize are unable to do so as there are no real housing opportunities in Town, and as a result, their homes do not reenter the housing market
3. Traffic to employment centers is unbearable immediately outside Town, and more people are using Town streets to attempt to skirt freeway traffic
4. Employees of Town businesses are driving long distances to reach their jobs, or are finding other jobs closer to home

5. Family members who grew up in Portola Valley are unable to live in or near Town, unless they move back into their family's home

After discussion, the Council directed staff to provide at a later meeting a process for community engagement, and identify potential options for the Town to explore.

This memo summarizes the Council's direction to staff, provides follow-up discussion on each of the six "buckets" of ideas identified by Council as potential solutions, and a timeline to carry out the strategic plan.

Regardless of the approach adopted, it must be noted that Portola Valley cannot solve the region's housing ills on its own; any set of solutions ultimately approved should be appropriate to the community's size and value system and must build upon the successes that have made Portola Valley such a special place to live and work.

## **DISCUSSION**

At the July 13<sup>th</sup> meeting, the Town Council identified six "buckets", or groupings of ideas to be considered, that should be prioritized by staff:

1. Accessory Dwelling Units (ADUs)
2. Affiliated Housing Opportunities
3. Housing Opportunities on Town-Owned Land
4. Review of the Inclusionary Housing Program/Update on Housing Impact Fee
5. Shared Housing
6. Public Outreach/Timeline/Review by Commissions and Committees

Each was researched by Town staff, and below are recommendations based on that research. The recommendations make up the draft housing options strategic plan.

### **1. Accessory Dwelling Units (ADUs)-Second Units and Junior Second Units**

**Secondary Dwelling Units**-The Town's Second Unit Ordinance was last updated on September 9, 2015 (Ord. 2015-408). Per Program 3 of the approved 2014 Housing Element, the following amendments were made to the Zoning Ordinance to encourage the production of second units.

1. Allows second units on parcels two acres or larger to have up to 1,000 square feet of floor area, rather than the previous limit of 750 square feet.
2. Allows two second units to be built on parcels 3.5 acres or larger. One of the units is required to be attached to the main house and the other unit would be a detached structure. This change allows owners of larger properties to accommodate more housing, particularly for family members and potentially any employees, such as groundskeepers or caregivers.
3. Allows staff level review and approval of second units up to 750 square feet, rather than the previous limit of 400 square feet.

In the 11 months since the adoption of the Ordinance amendments, the Town has received eight (8) second unit applications. Historically, the Town has strongly supported

the creation of second units as a way to create affordable housing opportunities and as a preferable alternative to construction of other housing types such as multi-family developments. Given the success of the ordinance, its expansion to other zoning districts is recommended for review.

**Recommendation One: Direct the Planning Commission to review amendments to the Second Unit Ordinance that could increase the maximum allowable size of the unit; allow second units on smaller (<1 acre) properties; waive permit fees; and possibly subsidize development cost.**

### **Cost of a Second Unit**

In general, commonly cited impediments to developing second units include minimum lot size and parking requirements. In addition, utility upgrades (electrical, water, sewer/septic) and fire sprinkler requirements may be triggered when adding new floor area to a property.

The Town's natural physical environment represents a significant constraint to development. Due to steeply sloping properties, geotechnical constraints, and the provision of utilities and sewage systems, the cost of construction in Portola Valley is considerably higher than elsewhere in the Bay Area. Projects are reviewed to ensure that landslides and other slope/soil stability hazards are suitably mitigated. The necessity for additional engineering and construction provisions, as well as for greater scrutiny in design and construction oversight, adds to the cost of development.

According to a local architect, the estimated cost for residential construction in 2016 is between \$350 and \$500 per square foot, not including permit fees levied by the Town and/or other public agencies.

Below is an explanation of the permit fees and the estimated cost to construct a 750 square foot second unit on a property with a septic system in 2016.

The Planning fee is comprised of a non-refundable flat fee and a deposit, against which professional planning and engineering staff charge to provide review services. This fee structure reflects the Town's actual cost for staff time for preparing projects for ASCC review and approval.

Building permit fees are charged to cover costs associated with the review of building plans for conformance with the California Building Standards Code as well as costs associated with conducting building construction inspections. The fees charged for building permits are based on the valuation of the construction.

The Town and special districts also impose new development fees for the construction and/or connection of new infrastructure systems to existing systems. This includes water and sewer fees and connection charges to address issues associated with increased system capacity demands and impacts.

While not imposed by the Town, local school districts charge a fee that is linked to the size of new construction and must be paid prior to issuance of building permits. The purpose of the fee is to compensate serving school districts for the costs associated with the demand for additional services and classroom space generated by new residential

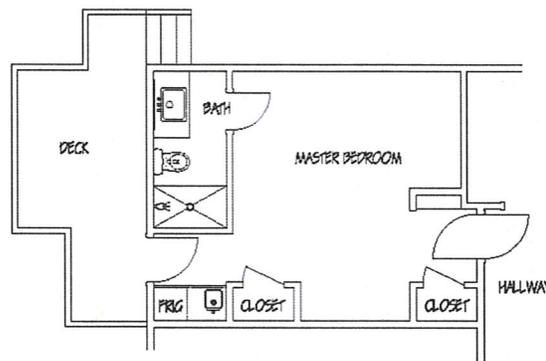
development. The two districts which collect fees in the Town are the Sequoia Union High School District (SUHSD) and the Portola Valley School District (PVSD), which levies a combined fee of \$3.48 per square foot for residential construction within the Town.

<b>Estimated Permit Fees</b>	<b>Approximate Cost for Second Unit (750 sq. ft.)</b>
Building Permit (plan check and inspection)	Fee: \$ 5,300
Planning Permit-ASCC, <i>if applicable</i>	Fee: \$675, Deposit: \$1500
Geologic Review	Fee: \$260, Deposit: \$2500
Fire Dept. Review	Fee: \$120
County Environmental Health Review (septic system), <i>if applicable</i>	Fee: \$909
Schools Fees - \$3.48/SF x 750 sq. ft.	Fee: \$2,610
<b>Subtotal</b>	<b>\$13,874</b>
<b>Estimated Plan Preparation/Design Cost</b>	
Architect	\$25,000-\$50,000
Structural Engineer	\$7,000-\$15,000
Surveyor	\$1,500-\$1,800
Geotechnical Engineer	\$4,000-\$5,000
Septic System Designer	\$8,000-\$10,000
<b>Subtotal</b>	<b>\$45,500-\$81,800</b>
<b>Estimated Construction Cost</b>	
Labor and materials \$350-\$500 per sq. ft.	\$262,500-\$375,000
Fire sprinklers (Build holding tank or install new line and meter)	\$2,000 or \$100,000
Septic system upgrade, <i>if applicable</i>	\$20,000-\$30,000
<b>Subtotal</b>	<b>\$284,500-\$505,000</b>
<b>Total Estimated Cost for a 750 sq. ft. Second Unit</b>	<b>\$343,874-\$600,674</b>

The above chart demonstrates the limited ability for the Town to influence the cost of the production of a second unit. However, Town staff does believe conversations with our partners at the County and in the private sector could provide better understanding of their costs and opportunities for improvement.

**Recommendation Two:** *Direct staff to work with regional agencies and private sector partners to reduce costs and eliminate barriers to second unit construction.*

**Junior Second Units (JSU)-** Junior second units are smaller, less impactful living spaces that would entail conversion of an existing bedroom within a dwelling to create a flexible-private living situation in conjunction with the owner-occupied unit. The concept of JSUs was first developed in Marin County by Rachel Ginis, Executive Director of Lilypad Homes, a non-profit organization dedicated to creating second unit housing that offers more affordable housing options for homeowners and renters.



Similar to secondary units, JSU's count towards a jurisdiction's Regional Housing Needs Allocation (RHNA) numbers. Each jurisdiction's requirements may differ slightly but in the City of Novato, which adopted a Junior Second Units ordinance in December 2014, the JSU program provides flexibility for homeowners to repurpose an extra bedroom in the house for additional rental income with minimal additional code requirements.

- No additional parking required
- No water or sewer connection fees
- No fire sprinkler requirement
- Simple approval process (building permit for interior remodel)

**Recommendation Three:** *Direct the Planning Commission to work with Town staff to further review and develop a Junior Second Unit Ordinance to allow conversion of existing space within single family homes into a junior accessory dwelling unit.*

## **2. Affiliated Housing Opportunities**

**Housing Element Program on Affiliated Housing** - In the early 1990's, the Town developed a housing program that expanded zoning to allow multifamily housing on institutional sites for employees and staff affiliated with the institutions that own the parcels. This program (Program 2 of the 2015 Housing Element) allows affiliated affordable multifamily housing on three designated sites in town: the Sequoias, the Priory School, and the Stanford Wedge. Town staff regularly engages with these affiliated housing partners to understand their needs as well as to share the Town's priorities.

During the course of these regular meetings, initial thoughts were shared regarding potential housing concepts at the Stanford Wedge property for housing. Town staff, the appropriate commissions, and the Town Council will review any proposal should Stanford wish to pursue housing concepts at the Wedge.

Additional housing is currently being pursued at Woodside Priory School; once complete, the Priory School will have 27 housing units in total. The Sequoias has no plans for affiliated housing at this time; staff will continue to engage with both of these affiliated housing partners.

### **Employee Housing on Commercial and Institutional Properties**

The affiliated housing program is a useful tool to link local employment with housing needs. There is currently no Town policy that addresses affordable housing on non-residential uses except for the Sequoias, Priory School and Stanford Wedge. Given that there are additional employers in town that may have the capacity and desire to house their employees, staff recommends engagement with these future partners to determine general interest and any possible barriers to housing on their properties.

At the July 13, 2016 Council meeting, Vice Mayor Hughes suggested that the Town survey workers in Portola Valley to gauge the need for local housing for the Town's workforce. The Council can direct staff to design a survey to collect this information and report back to Council with the findings before developing a program for employee housing on commercial and institutional properties.

**Recommendation Four:** *Direct staff to engage with businesses in Town to gauge interest in joining the Town's Affiliated Housing program created by the Housing Element. Changes to the Housing Element requires a recommendation by the Planning Commission, one public hearing by the Town Council, and appropriate public noticing.*

**Recommendation Five:** *Direct staff to conduct outreach to local employers and pre-approve an employee survey*

## **3. New Housing Opportunities on Town-Owned Land**

Like many other municipalities, the Town of Portola Valley owns a number of lots acquired through the Inclusionary Housing Ordinance, remnants of larger lots, and acquisitions. The Town currently owns 26 properties<sup>1</sup>, ranging in size from 0.017 to 16.05 acres (Attachment 2). Most are not developable given their location, size,

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<sup>1</sup> Not including Town facilities

proximity to utilities, or geologic challenges. However, if the Council would like to further explore opportunities to produce modest and appropriate numbers of housing on town-owned land, Town staff can more formally examine potential locations: additional study is required to determine any development constraints and the number of potential housing units the sites may yield. This option may require General Plan and Zoning amendments.

In conjunction with this evaluation, Town staff would develop criterion for the occupancy of such units, based on employment and income range. Staff believes that teachers, public safety officials, health care providers, and residents who wish to age in the community should be priority occupants.

**Recommendation Six:** *Create an ad hoc committee to review and recommend potential housing on Town-owned properties. Staff recommends the ad hoc committee be made up of two Councilmembers, two Planning Commissioners chosen by that body, and three residents appointed by the Town Council.*

**Recommendation Seven:** *Direct staff and ad hoc committee to identify potential town-owned sites for potential housing units, and criteria for their occupancy.*

#### **4. Inclusionary Housing Ordinance/Housing Impact Fee**

**Inclusionary Housing Ordinance-** Inclusionary housing is a tool that requires all market rate housing developers to provide some below market rate housing as part of a development. Portola Valley first adopted an inclusionary housing program as part of the 1990 Housing Element update. The Town's Inclusionary Housing Ordinance (ORD. # 1991-262) requires developers to provide 15% of new lots to the Town for below market rate housing as part of every subdivision, or pay an in-lieu fee. Currently, this is the only program the Town has that produces resources for affordable housing, either in the form of below market rate units or in-lieu funds. Given that very few subdivisions are created in Portola Valley, funds for affordable housing (while significant given the size of the subdivision) are not dependable.

Program 1 of the 2014 Housing Element calls for an update to the Town's inclusionary housing program to require developers to build affordable housing units with an approved subdivision, reducing the percentage of lots required for below market rate housing, and/or applying a housing impact fee to projects. A nexus study is needed to support any amendments to the Town's inclusionary housing requirements.

In 2015, the Town participated in the County-wide Grand Nexus Study project, a collaborative effort to study residential and commercial impact fees to support affordable housing in San Mateo County. A draft report was prepared for the Town by Strategic Economics and Venazza Wolfe Associates; Other municipalities in San Mateo County have participated the nexus study project and some have adopted housing impact fees based on the results of their jurisdiction specific reports. The draft report for Portola Valley is on hold pending further review of the need for the housing impact fee.

The Town's Inclusionary Housing Ordinance explicitly links its fees to affordable housing projects and programs, but does not specify what those programs are. If the Town chooses to adopt a housing impact fee, it is anticipated that fees would be generated every year (depending on the type of fee eventually adopted). However, the Town does

not have a program that would currently benefit from such a fee (Town staff have identified potential small-scale programs that could be supported by the fee, but it is not anticipated that any large projects would require ongoing fee support similar to the types of programs larger municipalities manage).

A housing impact fee could be used, like it is in other municipalities, to support the Housing Endowment and Regional Trust (HEART)'s affordable housing support programs; the County of San Mateo has committed half of the funds from their housing impact fee to HEART; other cities are following suit.

**Recommendation Eight:** *Postpone further work on the draft housing impact fee study until the Town Council has adopted the housing option strategic plan, which will include a list of concepts and programs and identified which program(s) may be funded by a housing impact fee. Once the program(s) have been adopted, Town staff can return to the Town Council with recommendations on the future of the Inclusionary Housing Ordinance and the housing impact fee. The General Plan and Town ordinances may require amendments.*

**Use of Existing Affordable Housing Funds** – Because of the inclusionary housing program, as of September 1, 2016, the Town has accumulated \$3,482,477.00 in its affordable housing fund.

These existing funds can be expended under the current Inclusionary Housing Ordinance to assist in the purchase or development of housing projects in Town.

**Recommendation Nine:** *Postpone allotment of existing affordable housing funds accumulated from the Inclusionary Housing Ordinance until completion of the housing options strategic plan.*

## **5. Shared Housing**

**HIP Housing** - HIP Housing, a San Mateo County nonprofit organization, has been helping people find housing opportunities through the agency's Home Sharing Program.

HIP Housing's Home Sharing Program:

- Offers a home sharing program free of charge
- Interviews prospective renters and completes an application
- Requests three character references, proof of income and identification
- Checks and follows up with the San Mateo County Superior Court and National Sex Offender databases to determine if clients have a criminal history
- Provides resources to clients on what questions to ask of prospective tenants during interviews
- Assists clients in completing a Living Together Agreement
- Provides mediation and follow-up support

In 2015, in collaboration with the Town, HIP Housing sent letters to Portola Valley homeowners who have a second unit or possible space available in their home to provide information about the Home Sharing Program. In addition, to assist HIP

Housing with their outreach efforts, the Town has provided a booth at the Farmer's Market and posts their monthly flyers on the PV Forum.

**Recommendation Ten:** *Continue to assist HIP Housing with publicizing their services by providing more exposure on the Town's website, at the Farmer's market, or develop an outreach program that specifically targets potential providers.*

## **6. Public Outreach/Timeline**

Critical to this process is the engagement of residents. Engagement on an issue like housing is a two-way street; it is both an opportunity to hear from residents on their ideas and concerns, but also a chance to educate and update the community. Given the sensitivities that typically surround a conversation about housing, it is imperative that any public process be transparent and inclusive.

Town staff suggests the following robust engagement:

- The use of online tools, such as the one recently used successfully by the Town Center Master Plan Committee, to gather as many residents' ideas as possible
- Hold at least two public meetings in the Community Hall to provide a forum for in-person engagement as well as information on the housing crisis
- Identify resources to help visualize ideas outlined in this staff report
- Refer ADUs (second units and junior second units) review to the Planning Commission
- Create an ad hoc committee, made up of members of the Town Council, the Planning Commission and community members to review staff work and potential proposals of new housing in Portola Valley

It is anticipated that the above engagement can be completed early spring 2017, with a draft housing options strategic plan ready for review by the Town Council mid-spring 2017.

**Recommendation Eleven:** *Direct staff to begin work on the above public engagement process.*

## **FISCAL IMPACT**

There is no fiscal impact associated with approval of the majority of the recommendations in this staff report. Recommendation One could result in waiver of fees or subsidy of development by the Town. Recommendations Five and Eleven will result in costs associated with the production of a survey, the use of an online engagement tool, and visualization of any of the ideas subsequently generated; funding for these items will be proposed to the Town Council at a later date.

## **ATTACHMENTS**

1. Council staff report dated July 13, 2016
2. Town-owned property map

San Mateo is also doing a charter amendment to extend the people who are currently serving who would expire in 2019.

Steve Hedlund said vote by mail was significantly less expensive and asked if that was an option to consider. Ms. Hanlon said the vote by mail trial in 2015 was successful but there has not been a decision made by the County Election Officer as to whether it will go all vote by mail.

With no further comments or questions, Mayor Derwin brought the issue back to the Council for discussion.

Councilmember Richards said the Town obviously has to make the change. He said the easiest thing to do is extend the terms and pursue that through the public process.

Councilmember Wengert said it makes sense that the Town should not have odd-year elections, but some discomfort comes in the Councilmembers deciding to extend their own terms. She asked if there were any other data points to consider. Town Manager Dennis said staff's review was solely from a cost perspective, which made it easy to recommend the option of extending the terms.

Councilmember Richards agreed and said he was somewhat uncomfortable with the Council making the decision, although he agreed it made sense to make the change to even years right away. He asked if there were any modifications that could be made to make it as public as possible.

Vice Mayor Hughes said the short deadline did not provide a lot of flexibility. He said this was authorized by law, which somewhat eases his comfort about the Council making this decision and said there did not seem to be much of a choice considering the financial impact.

Town Attorney Prince said the Elections Code authorizes the addition or subtraction of one year of term for situations like this. She said the odd-numbered election years was adopted in 1987.

Jon Silver, 355 Portola Valley Road. Mr. Silver said he recalled making the decision as a Councilmember to consolidate the School Board elections when they could have chosen general or statewide elections. He said they did not extend their terms but shortened them, because he did not feel it was right, without voter approval, to lengthen his own term. He said the reason they chose odd-numbered years was so that folks could focus fully on local government and not be distracted by national and statewide campaigns. He was not supportive of the SB 415 mandate.

Vice Mayor Hughes said unfortunately there is no flexibility because if their terms were reduced by a year they would be up for election next week.

The Town Council approved consolidation with the statewide general election, occurring on even years, and extending two Councilmembers' terms from 2017 to 2018 and three Councilmembers' terms from 2019 to 2020. After Town Clerk Hanlon explained the costs for an odd-year election, Mr. Silver said that was certainly a different order of magnitude.

(7) Recommendation by Town Manager – Draft Housing Options Strategic Plan – Follow-Up Discussion.

Town Manager Dennis presented the staff report recommending adoption of a draft housing options strategic plan.

- **Recommendation One:** Direct the Planning Commission to review amendments to the Second Unit Ordinance that could increase the maximum allowable size of the unit; allow second units on smaller (<1 acre) properties; waive permit fees; and possibly subsidize development cost.

Councilmember Wengert thanked staff for a terrific report. She asked Planning Director Pedro how many additional properties could qualify for the 1,000-square-foot second unit by reducing the lot size requirement to 2 acres. Planning Director Pedro did not know the exact number. She said it could be researched or taken to the Planning Commission as part of their review. Councilmember Wengert said it would also be useful to the Council and the Planning Commission in determining impact if they could see the breakdown, including properties of less than 2 acres. She asked if the idea had come up regarding modular housing as an approach to second units. Planning Director Pedro said modular or prefab housing is currently permitted and allowed, although they don't see a lot of them. She said they tend to see more custom homes, even for the smaller second units. She said they have had inquiries but does not know if any applications have actually been submitted.

Councilmember Richards said there was some discussion regarding allowing second units on smaller lots and finding some smaller lots that have existing legal non-conforming second units that might be good models. Planning Director Pedro said that has not been researched yet, but it is a good idea.

Mayor Derwin asked if people were allowed to put a trailer on their property as a second unit. Planning Director Pedro said those would be considered RVs and would fall under a different code requirement. She said they would have to be outside of the setbacks and falls under a different set of construction codes. She said the tiny houses movement has brought up an inquiry. She said, however, that once the Town provided the requirements, that person hasn't come back.

Mayor Derwin called for questions or comments from the audience.

An unidentified individual asked if the people in Woodside or Atherton have been approached regarding these issues. Town Manager Dennis said there has been no specific conversation with them related to the staff report before the Council tonight; however, there have been general conversations on a staff-to-staff level. He said his colleagues in the other cities know the Town is discussing this. Mayor Derwin said she has spoken informally regarding this subject with a colleague in Woodside.

Meg Abraham, Alpine Road. She asked if the goal was affordable housing or increased housing. She said she doesn't know what affordable housing means in this context, what would qualify for the State's affordable housing. She said with regard to second units, even those who have non-conforming grandfathered in second units, the cost in City fees coupled with the intrusion of the ASCC, just to make maybe \$1,000 or \$2,000 a month on a second unit, is very daunting. She said the Council needs to look at costs, not just subsidizing, to lessen the pain, or the residents are not going to consider it.

Mayor Derwin said she understands those concerns because she's trying to build one herself right now.

Bill Youstra said Westridge is material to this issue because there is the capacity there in terms of acreage, and he has not heard if they are supportive or not. He said when he installed solar at his house, there was a group buy and the Town was very accommodating and facilitated installation of solar by reducing the friction associated with it. He said if residents could add prefab second units, possibly marketed as a group buy, for which the Town provided preapprovals and fixed fees, it could move very quickly.

Mayor Derwin said she agreed and that exact idea has been discussed at the County level.

Helen Walter, 4600 Alpine Road. She said her mother bought her property of 1.8 acres 30 years ago. Her mother would like to age in place and Ms. Walter has the money to build a second structure for herself and her son on the property. However, the 750-square-foot limit is not enough room for them. She said they could expand her mother's house by 3,000 square feet but they want their own house. She said below market rate housing is usually 900 square feet for a two-bedroom unit. She said this is a regional

issue because everyone crosses jurisdictions on a daily basis and driving long distances between homes and jobs increases traffic for everyone.

With no further comments or questions, Town Manager Dennis continued with the staff report.

- **Recommendation Two:** Direct staff to work with regional agencies and private sector partners to reduce costs and eliminate barriers to second unit construction.

Councilmember Wengert asked Town Manager Dennis who he would be approaching regarding the regional agency fees. Town Manager Dennis said County would be the primary. Mayor Derwin said she is building a one-bedroom, 750-square-foot affordable housing unit on her property. She shared some of the obstacles and large fees associated with that. She said she would like the Town to work out some of these obstacles for the residents.

Vice Mayor Hughes said it appeared the real bulk of the cost is construction so looking at modular units would be a huge benefit.

With no further comments or questions, Town Manager Dennis continued with the staff report.

- **Recommendation Three:** Direct the Planning Commission to work with Town staff to further review and develop a Junior Second Unit Ordinance to allow conversion of existing space within single family homes into a junior accessory dwelling unit.

In response to Vice Mayor Hughes' question, Planning Director Pedro said that current code does not allow a second kitchen or cooking facilities in the main house.

In response to Councilmember Wengert's question, Planning Director Pedro said the code required a separate entrance and there is no limitation for number of entrances on a building.

With no further comments or questions, Town Manager Dennis continued with the staff report.

- **Recommendation Four:** Direct staff to engage with businesses in Town to gauge interest in joining the Town's Affiliated Housing program created by the Housing Element. Changes to the Housing Element requires a recommendation by the Planning Commission, one public hearing by the Town Council, and appropriate public noticing.
- **Recommendation Five:** Direct staff to conduct outreach to local employers and pre-approve an employee survey.

Town Manager Dennis said the Town currently has an affiliated housing program with Stanford University, Woodside Priory, and The Sequoias. He said Woodside Priory currently has approximately 20 on-site housing units and will be adding more. He said Recommendations Four and Five would gauge interest and provide information regarding the scope of the issue.

Vice Mayor Hughes said it has come up that people don't necessarily want to live on-site where their jobs are located. He said swaps have also been discussed, not just in Town but including neighboring Towns.

Councilmember Aalfs asked if the affiliated housing at the Priory is deed restricted. Planning Director Pedro said The Priory will have a total of 27 housing units, but not all are affordable housing units. She said one or two are deed restricted. She said the housing units are for their faculty and they are charging below market rate rents even though they are not deed restricted.

Town Attorney Prince said, with regard to trading or swapping employee housing, there are some parameters around employee housing. She said that when it is expanded beyond that, there may be some Fair Employment Housing Act laws that would have to be researched.

Bill Youstra Cervantes Road. He asked if there had been any discussion around developing the Stanford Wedge. Town Manager Dennis said staff regularly has conversations with all three of the affiliated housing partners. He said conversations with Stanford University have indicated some potential interest in the future and the conversations are continuing. Planning Director Pedro said the 2014 General Plan Housing Element states that in the 2014-2022 planning period, there is a specific program to take a closer look at the feasibility of development on the Stanford Wedge. Mr. Youstra asked if the Priory was limited by their own financial capacity to develop or if there were other restrictions. Mr. Youstra said housing really governs the school's ability to recruit great teachers. Town Manager Dennis said the Priory fundraises and contributes money to construction, so the financial aspect is a consideration. Planning Director Pedro said the master plan that was approved by the Planning Commission identifies how many housing units, academic buildings, fields, etc., so in some ways the development on the property is governed by the use permit. Vice Mayor Hughes said the Priory is not at the limit – they can build 11 more units under their current permit.

Councilmember Aalfs asked how many units the Sequoias currently have permitted by their master plan. Planning Director said they have none for affiliated housing. She said the Sequoias are currently reviewing their master plan and they plan to bring an application sometime next year.

With no further comments or questions, Town Manager Dennis continued with the staff report.

- **Recommendation Six:** Create an ad hoc committee to review and recommend potential housing on Town-owned properties. Staff recommends the ad hoc committee be made up of two Councilmembers, two Planning Commissioners chosen by that body, and three residents appointed by the Town Council.
- **Recommendation Seven:** Direct staff and ad hoc committee to identify potential Town-owned sites for potential housing units, and criteria for their occupancy.

With no comments or questions, Town Manager Dennis continued with the staff report.

- **Recommendation Eight:** Postpone further work on the draft housing impact fee study until the Town Council has adopted the housing option strategic plan, which will include a list of concepts and programs and identified which program(s) may be funded by a housing impact fee. Once the program(s) have been adopted, Town staff can return to the Town Council with recommendations on the future of the Inclusionary Housing Ordinance and the housing impact fee. The General Plan and Town ordinances may require amendments.
- **Recommendation Nine:** Postpone allotment of existing affordable housing funds accumulated from the Inclusionary Housing Ordinance until completion of the housing options strategic plan.

In response to Councilmember Aalfs question, Town Manager Dennis said the inclusionary housing fee would stay in place if a subdivision was proposed and would be governed under that ordinance. Since the Town does not have a housing impact fee, there would be no further work done on that.

Meg Abraham, 4536 Alpine Road. She said she is supportive of the idea of the Town paying for a subdivision. She said she does not want to see affordable housing tucked away in some corner because that would be ghettoizing. She said if there is going to be a subdivision of affordable housing, it needs to be central to Portola Valley so that these people remain part of the community. She said there would also need to be a method to keep an affordable housing subdivision affordable, possibly where the Town

maintains some control over the subdivision. She said, as a long term resident, it breaks her heart that many teachers can no longer stay in Portola Valley. She said she would also like to see retirement age planning put into any sort of subdivision that would utilize this sort of money.

Vice Mayor Hughes pointed out that money loses effective value the longer it sits in the Inclusionary Housing Fund and it doesn't make sense to look to collect more money until the Town determines what it will be spent on.

Monika Cheney, Goya Road. She said the staff report indicates there is currently \$3.5 million in the affordable housing fund. She said it is unclear to her what the possibilities are for that money. She asked if the money was available for housing projects on Town-owned land or the other programs that have been discussed, or if the Town can use it to buy property. Town Attorney Prince said Recommendation Eight is to consider what the Town Council would be interested in using the funds for and there is not currently a defined program beyond that it needs to be used for affordable housing, which could include a variety of things including purchasing property to work with an affordable housing developer to build, building affordable housing on Town-owned land, etc.

Town Manager Dennis said staff is trying to explore where the potential programs could go and then come back and revisit whether or not the Inclusionary Housing Ordinance is the appropriate place to fund those things, or to find some other mechanism for it. He said there is no recommendation at this time regarding what it should be used for because it is unknown what will come out of this discussion.

Vice Mayor Hughes asked if it was correct to say it is fairly flexible, although there may be legal constraints from the County or the State, as long as it's being spent on something to do with low-income housing. Town Attorney Prince said it is required to be spent on affordable housing, and as it gets down to specific things the Town Council wants, the legal limitations can be researched.

With no further comments or questions, Town Manager Dennis continued with the staff report.

- **Recommendation Ten:** Continue to assist HIP Housing with publicizing their services by providing more exposure on the Town's website, at the Farmer's market, or develop an outreach program that specifically targets potential providers.

Vice Mayor Hughes asked what kind of numbers HIP Housing has historically placed in Portola Valley. Town Manager Dennis said it is minimal and in recent years it is zero. He said staff recently worked with HIP Housing in PV Ranch to including information about their program in the newsletter. He said there were a couple of people who wanted to learn more about it. He said it is very challenging to get the word out about this program. Mayor Derwin said HIP Housing thoroughly vets their candidates and they have great success stories.

Councilmember Aalfs said Recommendation Ten ties in nicely with Recommendation Three about the junior second units.

With no further comments or questions, Town Manager Dennis continued with the staff report.

- **Recommendation Eleven:** Direct staff to begin work on the above public engagement process.

Town Manager Dennis said staff hopes to be able to go through all the recommendations and have something back to Council in mid-spring 2017.

John Silver, 355 Portola Road. He said he was involved, in the early-1990s, in the first really extensive and serious revamp of the Housing Element, which was approved by the State Department of Housing and Community Development. He described the process at that time, which included field trips that were

very valuable. He said the more that real knowledge can be brought to people, the better the chance to come together as a community about things that will serve the Town well and make the community better.

With no further questions or comments, Mayor Derwin brought the item back to the Council for discussion.

Councilmember Richards said that, considering the scope of the issue, Recommendations One through Seven all need to be implemented, and probably simultaneously. Councilmember Wengert agreed.

Councilmember Wengert said parts of Recommendation One should be prioritized. She said a lot of emphasis should be put on the breakdown of lot sizing and how much it will add to inventory because that will drive what proposal might be sent to the Planning Commission. She said it should be significant enough to potentially provide for a fair number of units being built. She said allowing second units on properties smaller than one acre was also a priority. She said waiving permit fees and subsidizing development costs would be a lower priority. She was supportive of a Junior Unit Ordinance.

Town Manager Dennis said the subsidizing and waiving of fees could be bifurcated and grouped with the postponed allotment of existing affordable housing funds.

Mayor Derwin said she really liked Mr. Youstra's idea regarding a group buy of modular units and asked if that would be something the Planning Commission would look into. Councilmember Wengert said since the ordinances allow for modular, that could probably be done at staff level. Councilmember Aalfs said it would be possible if it was decided that 1,000 square feet was appropriate on more lots, and if a pre-engineered, pre-approved solution for anything up to 1,000 square feet could be developed. Councilmember Richards said it would require ASCC involvement.

Town Attorney Prince said design standards could be crafted with modular units in mind. If a resident could meet the codified design standards, the process would be simpler.

Councilmember Wengert asked if this question should be directed back to the ASCC. Vice Mayor Hughes said the Planning Commission would also want to look at it because of issues like parking, sewer connections, etc.

Town Manager Dennis suggested the Planning Commission look at all of the elements and then forward on whatever requires ASCC review.

In response to Councilmember Aalfs' question, Town Manager Dennis said Recommendations Four and Five are a set of conversation to gather information to bring back to Council. He said the most labor intensive piece is the survey. He said the Council is required to approve all surveys, so staff is asking for preapproval of a modest set of questions. Councilmember Wengert said the survey will be critical in gauging demand. Vice Mayor Hughes said another benefit of the survey of local employers is that it puts a face on the whole issue. He said the public will be educated when they see responses from the people who work in Town and hear about their struggles to commute to Portola Valley.

Councilmember Aalfs said his hesitation with regard to the ad hoc group was the great amount of work that would be required for Recommendation Six and Seven. He asked if the Council really believes housing can be created on Town-owned property. Councilmember Wengert said she thinks it can. She said the Town has been committed to trying to do something for a very long time. She said with this kind of a process and public engagement, looking at all the options available, it is important to focus it in as quickly as possible to see what the realistic options are, if any.

**The Council approved Recommendation One** and directed the Planning Commission to review amendments to the Second Unit Ordinance, possibly increasing the maximum allowable size of the

second unit and allowing second units on properties smaller than one acre, and to look into a group buy of pre-engineered, preapproved, modular units of various sizes up to 1,000 square feet.

**The Council approved Recommendation Two**, and directed staff to work with regional agencies and private sector partners to reduce costs and eliminate barriers to second unit construction.

**The Council approved Recommendation Three** and directed the Planning Commission to work with staff to develop a Junior Second Unit Ordinance.

**The Council approved Recommendation Four** and directed staff to engage with businesses in Town to gauge interest in joining the Town's Affiliated Housing Program created by the Housing Element.

**The Council approved Recommendation Five** and directed staff to conduct outreach to local employers and preapproved an employee survey.

**The Council approved Recommendation Six and Seven** to create an ad hoc committee to review and recommend potential housing on Town-owned properties. The ad hoc committee will consist of two Councilmembers, two Planning Commissioners chosen by that body, and three residents appointed by the Town Council. The Council directed staff and the ad hoc committee to identify potential town-owned sites for potential housing units, and criteria for their occupancy.

Councilmember Richards nominated Mayor Derwin to serve on the ad hoc committee. Mayor Derwin accepted. Councilmember Wengert volunteered to serve on the ad hoc committee.

**The Council approved Recommendations Eight, Nine, and Ten.**

Councilmember Aalfs moved to approve staff recommendations regarding the Draft Housing Options Strategic Plan. Seconded by Councilmember Wengert; the motion carried 5-0.

Mayor Derwin called for a brief recess.

(8) Recommendation by Town Attorney – Annual Evaluation Process.

Town Attorney Leigh Prince presented the staff report regarding the annual evaluation process. She requested that the Town Council provide input on the annual evaluation process for the Town Manager, select a subcommittee of the Town Council to finalize the evaluation process, and conduct the annual evaluation before the Town Council meeting on December 14, 2016.

Councilmember Wengert said she recalled the Council had previously discussed possibly retaining a part-time human resources consultant, not only for this process but for other personnel issues that might arise. She asked Town Attorney Prince if the consultant she selected could play that role on an ongoing basis. Town Attorney Prince said she and the consultant, Marcie Scott of Municipal Resource Group, had also discussed a more long-term on-call relationship. Councilmember Wengert said it should be a goal to have that person available as a resource to assist with future issues. In response to Councilmember Wengert's question, Town Attorney Prince said Ms. Scott proposed an hourly rate fee with a not to exceed. In response to Councilmember Wengert's question, Town Manager Dennis said he had not met the consultant. He said if her role was expanded outside of this project, he would like to have a conversation with her. Mayor Derwin asked the Town Attorney how many hours she thought it would take. Town Attorney Prince said it will depend on how much work the subcommittee is willing to take on independently. If the subcommittee uses the three or four evaluations she provided as examples to create a self-evaluation for the Town Manager, and something for staff, and then maybe just run it by her to make sure all the bases are covered, she said it will not take her very much time. She said if the subcommittee wanted to be more hands-off and just direct the Town Attorney to generate the reviews and

**ORDINANCE NO. 2015 - 408**

**ORDINANCE AMENDING TITLE 18 [ZONING] OF THE PORTOLA VALLEY  
MUNICIPAL CODE RELATIVE TO SECOND UNITS**

**WHEREAS**, on January 14, 2015, the Town Council of the Town of Portola Valley ("Town") adopted its current Housing Element;

**WHEREAS**, second units appear to be a very effective way of providing affordable housing in Portola Valley;

**WHEREAS**, the Housing Element includes provisions to encourage increased production of second units, including allowing staff-level review of second units up to 750 square feet in size, allowing two second units on parcels that are over 3.5 acres in size, and allowing larger second units up to 1,000 square feet on lots that are two acres or more; and

**WHEREAS**, the Town Council identified amendments to the Zoning Ordinance to encourage the production of second units as a priority.

**NOW, THEREFORE**, the Town Council of the Town of Portola Valley does **ORDAIN** as follows:

1. **AMENDMENT OF CODE**. Section 18.04.422 [Second Units] of Chapter 18.04 [Definitions] of Title 18 [Zoning] of the Portola Valley Municipal Code is hereby amended in its entirety to read as follows:

"An attached or detached residential dwelling unit located on the same parcel as a main dwelling unit and which provides complete independent living facilities, including those for living, sleeping, eating, cooking and sanitation, for one household."

2. **AMENDMENT OF CODE**. Subsection (B) of Section 18.12.040 [Accessory Uses Permitted] of Chapter 18.12 [R-E (Residential Estate) District Regulations] of Title 18 [Zoning] of the Portola Valley Municipal Code is hereby amended in its entirety to read as follows:

"B. Second units subject to the following provisions:

1. A second unit up to seven hundred and fifty (750) square feet may be permitted on a parcel which is one acre or larger.
2. A second unit up to one thousand (1,000) square feet may be allowed on a parcel which is two acres or larger.
3. Two second units each up to one thousand (1,000) square feet may be allowed on a parcel of 3.5 acres or larger. Only one of the second units may be detached from the main house, except that both second units may be detached if both are created by converting existing floor area in legal accessory structures into second units.

4. Second unit floor area is inclusive of any basement area, but exclusive of garage or carport area.
5. The second unit shall have the same address as the principal dwelling.
6. The second unit is served by the same vehicular access to the street as the principal dwelling.
7. One dedicated parking space shall be provided for each second unit with one bedroom or less, and two dedicated parking spaces shall be provided for each second unit with two or more bedrooms.
8. Parking spaces in garages or carports shall be at least ten feet by twenty feet. Uncovered parking spaces shall be at least nine feet by eighteen feet.
9. Parking spaces do not have to be covered, guest spaces are not required and tandem parking is permitted.
10. Color reflectivity values shall not exceed forty percent except that trim colors shall not exceed fifty percent. Roofs shall not exceed fifty percent reflectivity.
11. Exterior lighting on the structure shall not exceed one light fixture per entry door. Each fixture shall be fitted with only one bulb and the bulb wattage shall not exceed seventy-five watts incandescent light if frosted or otherwise diffused, or twenty-five watts if clear. Each fixture shall be manually switched and not on a motion sensor or timer. Path lights, if any, shall be the minimum needed for safe access to the second unit and shaded by fixtures that direct light to the path surface and away from the sky.
12. Landscape plantings shall be selected from the town's list of approved native plants and shall adhere to the town's landscaping guidelines.
13. An application for a second unit shall be referred to the town geologist, director of public works, fire chief and, if dependent on a septic tank and drain field, to the county health officer in accordance with town policies.
14. An application for a second unit shall supply all information required by Section 18.64.040A.1 through 13.
15. Staff may approve an application for a second unit, either attached or detached, which meets all of the conditions below:
  - a) The second unit shall not exceed seven hundred and fifty (750) square feet of floor area.
  - b) The second unit shall conform to the Town's General Plan, Zoning and Site Development Codes, and Design Guidelines.
  - c) The second unit shall not exceed a vertical building height, of eighteen (18) feet with and a maximum building height of twenty-four (24) feet, as defined in Section 18.54.020.A. A second unit may be permitted to a vertical building

height of twenty-eight (28) feet and a maximum building height of thirty-four (34) feet subject to ASCC approval.

- d) The second unit shall have colors, materials and architecture similar to the principal dwelling. Architecture not similar to the architecture of the principal dwelling is subject to ASCC approval.
- e) The second unit is not visible from a local scenic corridor as identified in the General Plan.
- f) Written notification of a second unit permit application shall be given to owner(s) of adjoining properties at least six days prior to action by planning staff. Town planning staff shall consider comments from owner(s) of adjoining properties and may take action on a permit or refer it to the ASCC.

3. SEVERABILITY. If any part of this ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or the applicability of this ordinance to other situations.

4. ENVIRONMENTAL REVIEW. Pursuant to Public Resources Code Section 21080.17, an ordinance providing for the creation of second units in single family residential zones is not subject to the California Environmental Quality Act.

5. EFFECTIVE DATE; POSTING. This ordinance shall become effective 30 days after the date of its adoption and shall be posted within the Town in three public places.

INTRODUCED: August 26, 2015

PASSED: September 9, 2015

AYES: Councilmember Wengert, Councilmember Richards,  
Councilmember Hughes, Vice Mayor Derwin and Mayor Aalfs

NOES: None

ABSTENTIONS: None

ABSENT: None

ATTEST:

  
Town Clerk

By:   
Mayor

APPROVED AS TO FORM:

  
Town Attorney



Planning Division Staff (415) 435-7390

[www.townoftiburon.org](http://www.townoftiburon.org)

## INFORMATION REQUIRED FOR THE REVIEW OF JUNIOR ACCESSORY DWELLING UNITS

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### JUNIOR ACCESSORY DWELLING UNITS

In accordance with Title IV, Chapter 16, Section 16-52.105 of the Tiburon Municipal Code, an application to establish a Junior Accessory Dwelling Unit on a property zoned R-1, R-1-B, RO or RPD shall be acted upon by the Planning Division Staff of the Town of Tiburon.

### PROCEDURE

Once an application is submitted, it will be reviewed for completeness by the Staff. If possible, a preliminary completeness check will be conducted at the counter to look for any obvious deficiencies in the application (no site plan, no filing fee, etc.). A more thorough review of the application will be performed in the days following submittal. If additional information is required to make the application complete, the applicant will be notified as soon as possible.

Once an application is deemed complete, Staff may take action to approve or deny the application. A decision on this action may be appealed to the Town Council within ten (10) calendar days.

### SUBMITTAL REQUIREMENTS

Below is a list of items typically required in order to properly review and reach a decision on an application for a Junior Accessory Dwelling Unit. Depending on the nature and complexity of the site or the project, additional information may be required by the Town before an application can be found complete or a decision reached. Applicants are encouraged to consult with Planning Division Staff prior to filing an application.

1. Completed application form (Town of Tiburon Land Development Application).
2. Filing Fee of \$250.
3. Three (3) sets of drawings (11" X 17" or larger) showing:
  - a. Site plan/Parking plan to scale showing: dimensions of the lot, property lines, all adjacent streets, vehicular access points; existing structures; and parking and driveway areas. The scale and north arrow shall be shown. The site plan shall indicate the total number of existing and proposed parking spaces on the property, showing the location and dimensions of all existing and/or proposed parking spaces, and showing the location of driveway access for all parking spaces, in sufficient detail for Staff to

determine if the property meets current parking standards. The plan shall indicate the general location of adequate on-street parking in the event that adequate on-site parking does not exist.

- b. Floor plan showing the location of the proposed unit in the residence in relation to all other rooms. The plan must demonstrate independent exterior doorway entry for the proposed unit as well as separate doorway access to the interior of the main residence. The floor plan must depict and demonstrate adequate access to sanitation facilities (bathroom, sink and tub/shower) either exclusive to the proposed unit or shared with the primary residence through internal access.
4. A written statement signed and dated by the owner of the property verifying under penalty of perjury that:
    - a. The Owner of Record maintains his or her Principal Place of Residence on the subject property.
    - b. The Junior Accessory Dwelling Unit would be the only Junior Accessory Dwelling Unit on the property and that there would be no Secondary Dwelling Unit on the property.
    - c. There is only one single-family dwelling unit on the property.
    - d. The Junior Accessory Dwelling Unit would be created within the existing walls of a single family dwelling and would be created by the conversion of an existing bedroom.
    - e. The Junior Accessory Dwelling Unit will contain an "efficiency kitchen" limited to the following components (at a maximum):
      - (1) A sink with maximum width and length dimensions of sixteen (16) inches and with a maximum waste line diameter of one-and-a-half (1.5) inches.
      - (2) A cooking facility or appliance that does not require electrical service greater than one hundred-ten (110) volts. Gas appliances are not permitted.
      - (3) A food preparation counter and storage cabinets that do not exceed six (6) feet in length.(Note: A normal-sized refrigerator is permitted)
  5. A memo from the Tiburon Building Division establishing the feasibility of the proposed unit to meet current building codes. An inspection will need to be arranged prior to filing of the application for a Junior Accessory Dwelling Unit. The Tiburon Building Division can be reached at 1-415-435-7357.
  6. A letter or memo from the appropriate Fire Protection District indicating that the Junior Accessory Dwelling Unit will comply with all applicable Fire District regulations.
  7. A letter or memo from the Marin Municipal Water District indicating that the Junior Accessory Dwelling Unit will comply with all applicable Water District regulations.

8. A Declaration of Restrictions signed by the property owner, in recordable format and notarized, with the County Recorder's filing fee attached, setting forth the following:
  - a. The **Junior Accessory Dwelling Unit** shall not be sold separately from the primary dwelling unit, and shall not be used or rented as a **Seasonal Rental Unit**, as defined in Chapter 16 (Zoning) of the Tiburon Municipal Code.
  - b. The **Junior Accessory Dwelling Unit** shall not exceed five-hundred (500) square feet in floor area nor be less than one hundred-fifty (150) square feet in floor area.
  - c. The **Junior Accessory Dwelling Unit** shall be considered lawful only as long as either it or the primary residence is occupied by the **Owner of Record** as his or her **Principal Place of Residence**.
  - d. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with any provisions of Tiburon Municipal Code Section 16-52.105 (or successor sections) may result in legal action against the property owner, including revocation of any right to maintain a **Junior Accessory Dwelling Unit** on the property.
9. Other information as may reasonably be required by the Director to complete processing of the application.



*California*  
LEGISLATIVE INFORMATION

**AB-2299 Land use: housing: 2nd units.** (2015-2016)

**SECTION 1.** Section 65852.2 of the Government Code is amended to read:

**65852.2.** (a) (1) ~~Any~~ *A* local agency may, by ordinance, provide for the creation of ~~second-~~ *accessory dwelling* units in single-family and multifamily residential zones. The ordinance ~~may shall~~ *do any all* of the following:

(A) Designate areas within the jurisdiction of the local agency where ~~second-~~ *accessory dwelling* units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of ~~second-~~ *accessory dwelling* units on traffic ~~flow.~~ *flow and public safety.*

(B) Impose standards on ~~second-~~ *accessory dwelling* units that include, but are not limited to, parking, height, setback, lot coverage, *landscape*, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(C) *Notwithstanding subparagraph (B), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.*

~~(D)~~ (D) Provide that ~~second-~~ *accessory dwelling* units do not exceed the allowable density for the lot upon which the ~~second-~~ *accessory dwelling* unit is located, and that ~~second-~~ *accessory dwelling* units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(E) *Require the accessory dwelling units to comply with all of the following:*

(i) *The unit is not intended for sale separate from the primary residence and may be rented.*

(ii) *The lot is zoned for single-family or multifamily use.*

(iii) *The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.*

(iv) *The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area.*

(v) *The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.*

(vi) *No passageway shall be required in conjunction with the construction of an accessory dwelling unit.*

(vii) *No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.*

(viii) *Local building code requirements that apply to detached dwellings, as appropriate.*

(ix) *Approval by the local health officer where a private sewage disposal system is being used, if required.*

(x) (I) *Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.*

(II) *Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.*

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. ~~Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units.~~ permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of ~~second~~ accessory dwelling units.

~~(b) (4) (1) Any~~ When existing ordinance governing the creation of accessory dwelling units by a local agency ~~which has not adopted an ordinance governing second units in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it~~ or any such ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance ~~in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a second unit if the second unit complies with all of the following:~~ that complies with this section.

~~(A) The unit is not intended for sale and may be rented.~~

~~(B) The lot is zoned for single-family or multifamily use.~~

~~(C) The lot contains an existing single-family dwelling.~~

~~(D) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.~~

~~(E) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.~~

~~(F) The total area of floorspace for a detached second unit shall not exceed 1,200 square feet.~~

~~(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.~~

~~(H) Local building code requirements which apply to detached dwellings, as appropriate.~~

~~(I) Approval by the local health officer where a private sewage disposal system is being used, if required.~~

~~(2) (5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.~~

~~(3) (6) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed~~ ~~second~~ accessory dwelling units on lots zoned for residential use ~~which that~~ contain an existing single-family dwelling. No additional standards, other than those provided in this ~~subdivision or subdivision (a),~~ subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

~~(4) (7) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any~~ A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ~~second-~~ *accessory dwelling* units if these provisions are consistent with the limitations of this subdivision.

~~(5) (8) A second unit which conforms to the requirements of~~ *An accessory dwelling unit that conforms to* this subdivision shall *be deemed to be an accessory use or an accessory building and shall* not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use ~~which that~~ is consistent with the existing general plan and zoning designations for the lot. The ~~second~~ *accessory dwelling* units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

~~(e) (b) No~~ When a local agency shall adopt an ordinance which totally precludes second units within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within single-family and multifamily zoned areas justify adopting the ordinance. *that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.*

~~(d) (c)~~ A local agency may establish minimum and maximum unit size requirements for both attached and detached ~~second-~~ *accessory dwelling* units. No minimum or maximum size for a ~~second-~~ *accessory dwelling* unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings ~~which that~~ does not permit at least an efficiency unit to be constructed in compliance with local development standards.

~~(e) Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings. Off street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.~~

~~(f) (d)~~ Fees charged for the construction of ~~second-~~ *accessory dwelling* units shall be determined in accordance with Chapter 5 (commencing with Section 66000).

~~(g) (e)~~ This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ~~second units.~~ *accessory dwelling units, provided those requirements comply with subdivision (a).*

~~(h) (f)~~ Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) ~~or (e)~~ to the Department of Housing and Community Development within 60 days after adoption.

~~(i) (g)~~ As used in this section, the following terms mean:

(1) "Living ~~area,~~ *area*" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) ~~"Second-~~ *"Accessory dwelling* unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. ~~A second-~~ *An accessory dwelling* unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(C) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(j) (h) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for ~~second-~~ accessory dwelling units.

**SEC. 1.5.** Section 65852.2 of the Government Code is amended to read:

**65852.2.** (a) (1) ~~Any~~ A local agency may, by ordinance, provide for the creation of ~~second-~~ accessory dwelling units in single-family and multifamily residential zones. The ordinance ~~may shall~~ do ~~any all~~ of the following:

(A) Designate areas within the jurisdiction of the local agency where ~~second-~~ accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of ~~second-~~ accessory dwelling units on traffic ~~flow.~~ flow and public safety.

(B) (i) Impose standards on ~~second-~~ accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, *landscape*, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) *Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.*

(C) Provide that ~~second-~~ accessory dwelling units do not exceed the allowable density for the lot upon which the ~~second-~~ accessory dwelling unit is located, and that ~~second-~~ accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) *Require the accessory dwelling units to comply with all of the following:*

(i) *The unit is not intended for sale separate from the primary residence and may be rented.*

(ii) *The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.*

(iii) *The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.*

(iv) *The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.*

(v) *The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.*

(vi) *No passageway shall be required in conjunction with the construction of an accessory dwelling unit.*

(vii) *No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.*

(viii) *Local building code requirements that apply to detached dwellings, as appropriate.*

(ix) *Approval by the local health officer where a private sewage disposal system is being used, if required.*

(x) (I) *Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.*

(II) *Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.*

(III) *This clause shall not apply to a unit that is described in subdivision (d).*

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. ~~Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units.~~ permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of ~~second units.~~ an accessory dwelling unit.

~~(b) (4) (1) An~~ existing ordinance governing the creation of an accessory dwelling unit by a local agency ~~which has not adopted an ordinance governing second units in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it~~ or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance ~~in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906,~~ every local agency shall grant a variance or special use permit for the creation of a second unit if the second unit complies with all of the following: that complies with this section.

~~(A) The unit is not intended for sale and may be rented.~~

~~(B) The lot is zoned for single-family or multifamily use.~~

~~(C) The lot contains an existing single-family dwelling.~~

~~(D) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.~~

~~(E) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.~~

~~(F) The total area of floorspace for a detached second unit shall not exceed 1,200 square feet.~~

~~(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.~~

~~(H) Local building code requirements which apply to detached dwellings, as appropriate.~~

~~(I) Approval by the local health officer where a private sewage disposal system is being used, if required.~~

(2) (5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(3) (6) This subdivision establishes the maximum standards that local agencies shall use to evaluate ~~proposed second units on lots~~ a proposed accessory dwelling unit on a lot zoned for residential use ~~which contain that contains~~ an existing single-family dwelling. No additional standards, other than those provided in this ~~subdivision or subdivision (a),~~ subdivision, shall be utilized or imposed, except that a local agency may

require an applicant for a permit issued pursuant to this subdivision to be an ~~owner-occupant~~; *owner-occupant or that the property be used for rentals of terms longer than 30 days.*

~~(4) (7) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any~~ A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ~~second units~~ *an accessory dwelling unit* if these provisions are consistent with the limitations of this subdivision.

~~(5) (8) A second unit which conforms to the requirements of~~ *An accessory dwelling unit that conforms to* this subdivision shall *be deemed to be an accessory use or an accessory building and shall* not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use ~~which that~~ *is* consistent with the existing general plan and zoning designations for the lot. The ~~second units~~ *accessory dwelling unit* shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

~~(e) (b) No~~ *When a* local agency ~~shall adopt an ordinance which totally precludes second units within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within single-family and multifamily zoned areas justify adopting the ordinance.~~ *that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.*

~~(d) (c)~~ A local agency may establish minimum and maximum unit size requirements for both attached and detached ~~second~~ *accessory dwelling* units. No minimum or maximum size for ~~a second~~ *an accessory dwelling* unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings ~~which that~~ *does not* permit at least an efficiency unit to be constructed in compliance with local development standards. *Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.*

*(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:*

*(1) The accessory dwelling unit is located within one-half mile of public transit.*

*(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.*

*(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.*

*(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.*

*(5) When there is a car share vehicle located within one block of the accessory dwelling unit.*

~~(e) Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction. Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.~~

*(f) (1) Fees charged for the construction of ~~second~~ accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section ~~66000~~; 66000) and Chapter 7 (commencing with Section 66012).*

(2) *Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.*

(A) *For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.*

(B) *For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.*

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ~~second units~~, *an accessory dwelling unit*.

(h) Local agencies shall submit a copy of the ~~ordinances~~ *ordinance* adopted pursuant to subdivision (a) ~~or (e)~~ to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living ~~area,~~" *area*" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) ~~"Second-~~ *"Accessory dwelling* unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. ~~A second-~~ *An accessory dwelling* unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) *"Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.*

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for ~~second-~~ *accessory dwelling* units.

**SEC. 2.** *Section 1.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Senate Bill 1069. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill is enacted after Senate Bill 1069, in which case Section 1 of this bill shall not become operative.*

**SEC. 3.** *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.*



*California*  
LEGISLATIVE INFORMATION

**SB-1069 Land use: zoning.** (2015-2016)

**SECTION 1.** Section 65582.1 of the Government Code is amended to read:

**65582.1.** The Legislature finds and declares that it has provided reforms and incentives to facilitate and expedite the construction of affordable housing. Those reforms and incentives can be found in the following provisions:

- (a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3).
- (b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009).
- (c) Restrictions on disapproval of housing developments (Section 65589.5).
- (d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7).
- (e) Least cost zoning law (Section 65913.1).
- (f) Density bonus law (Section 65915).
- (g) ~~Second~~ *Accessory* dwelling units (Sections 65852.150 and 65852.2).
- (h) By-right housing, in which certain multifamily housing are designated a permitted use (Section 65589.4).
- (i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863).
- (j) Requiring persons who sue to halt affordable housing to pay attorney fees (Section 65914) or post a bond (Section 529.2 of the Code of Civil Procedure).
- (k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5).
- (l) Limiting moratoriums on multifamily housing (Section 65858).
- (m) Prohibiting discrimination against affordable housing (Section 65008).
- (n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3).
- (o) Community redevelopment law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, and in particular Sections 33334.2 and 33413).

**SEC. 2.** Section 65583.1 of the Government Code is amended to read:

**65583.1.** (a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for substantial compliance with this article, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. The department may also allow a city or county to identify sites for ~~second-~~ *accessory dwelling* units based on the number of ~~second-~~ *accessory dwelling* units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department. Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required by this article.

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any

subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

(c) (1) The Department of Housing and Community Development may allow a city or county to substitute the provision of units for up to 25 percent of the community's obligation to identify adequate sites for any income category in its housing element pursuant to paragraph (1) of subdivision (c) of Section 65583 where the community includes in its housing element a program committing the local government to provide units in that income category within the city or county that will be made available through the provision of committed assistance during the planning period covered by the element to low- and very low income households at affordable housing costs or affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, and which meet the requirements of paragraph (2). Except as otherwise provided in this subdivision, the community may substitute one dwelling unit for one dwelling unit site in the applicable income category. The program shall do all of the following:

(A) Identify the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision.

(B) Indicate the number of units that will be provided to both low- and very low income households and demonstrate that the amount of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents.

(C) Demonstrate that the units meet the requirements of paragraph (2).

(2) Only units that comply with subparagraph (A), (B), or (C) qualify for inclusion in the housing element program described in paragraph (1), as follows:

(A) Units that are to be substantially rehabilitated with committed assistance from the city or county and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not eligible to be "substantially rehabilitated" unless all of the following requirements are met:

(i) At the time the unit is identified for substantial rehabilitation, (I) the local government has determined that the unit is at imminent risk of loss to the housing stock, (II) the local government has committed to provide relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants temporarily or permanently displaced by the rehabilitation or code enforcement activity, or the relocation is otherwise provided prior to displacement either as a condition of receivership, or provided by the property owner or the local government pursuant to Article 2.5 (commencing with Section 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, or as otherwise provided by local ordinance; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260, (III) the local government requires that any displaced occupants will have the right to reoccupy the rehabilitated units, and (IV) the unit has been found by the local government or a court to be unfit for human habitation due to the existence of at least four violations of the conditions listed in subdivisions (a) to (g), inclusive, of Section 17995.3 of the Health and Safety Code.

(ii) The rehabilitated unit will have long-term affordability covenants and restrictions that require the unit to be available to, and occupied by, persons or families of low- or very low income at affordable housing costs for at least 20 years or the time period required by any applicable federal or state law or regulation.

(iii) Prior to initial occupancy after rehabilitation, the local code enforcement agency shall issue a certificate of occupancy indicating compliance with all applicable state and local building code and health and safety code requirements.

(B) Units that are located either on foreclosed property or in a multifamily rental or ownership housing complex of three or more units, are converted with committed assistance from the city or county from nonaffordable to affordable by acquisition of the unit or the purchase of affordability covenants and restrictions for the unit, are not acquired by eminent domain, and constitute a net increase in the community's stock of housing affordable

to low- and very low income households. For purposes of this subparagraph, a unit is not converted by acquisition or the purchase of affordability covenants unless all of the following occur:

- (i) The unit is made available for rent at a cost affordable to low- or very low income households.
- (ii) At the time the unit is identified for acquisition, the unit is not available at an affordable housing cost to either of the following:

- (I) Low-income households, if the unit will be made affordable to low-income households.

- (II) Very low income households, if the unit will be made affordable to very low income households.

- (iii) At the time the unit is identified for acquisition the unit is not occupied by low- or very low income households or if the acquired unit is occupied, the local government has committed to provide relocation assistance prior to displacement, if any, pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants displaced by the conversion, or the relocation is otherwise provided prior to displacement; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260.

- (iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

- (v) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to persons of low- or very low income for not less than 55 years.

- (vi) For units located in multifamily ownership housing complexes with three or more units, or on or after January 1, 2015, on foreclosed properties, at least an equal number of new-construction multifamily rental units affordable to lower income households have been constructed in the city or county within the same planning period as the number of ownership units to be converted.

(C) Units that will be preserved at affordable housing costs to persons or families of low- or very low incomes with committed assistance from the city or county by acquisition of the unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:

- (i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to, and reserved for occupancy by, persons of the same or lower income group as the current occupants for a period of at least 40 years.

- (ii) The unit is within an "assisted housing development," as defined in paragraph (3) of subdivision (a) of Section 65863.10.

- (iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

- (iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

- (v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low- or very low income.

(3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any housing unit that a building permit has been issued and all development and permit fees have been paid or the unit is eligible to be lawfully occupied.

(4) For purposes of this subdivision, "committed assistance" means that the city or county enters into a legally enforceable agreement during the period from the beginning of the projection period until the end of the second year of the planning period that obligates sufficient available funds to provide the assistance necessary to make the identified units affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. "Committed assistance" does not include tenant-based rental assistance.

(5) For purposes of this subdivision, "net increase" includes only housing units provided committed assistance pursuant to subparagraph (A) or (B) of paragraph (2) in the current planning period, as defined in Section 65588, that were not provided committed assistance in the immediately prior planning period.

(6) For purposes of this subdivision, "the time the unit is identified" means the earliest time when any city or county agent, acting on behalf of a public entity, has proposed in writing or has proposed orally or in writing to the property owner, that the unit be considered for substantial rehabilitation, acquisition, or preservation.

(7) In the third year of the planning period, as defined by Section 65588, in the report required pursuant to Section 65400, each city or county that has included in its housing element a program to provide units pursuant to subparagraph (A), (B), or (C) of paragraph (2) shall report in writing to the legislative body, and to the department within 30 days of making its report to the legislative body, on its progress in providing units pursuant to this subdivision. The report shall identify the specific units for which committed assistance has been provided or which have been made available to low- and very low income households, and it shall adequately document how each unit complies with this subdivision. If, by July 1 of the third year of the planning period, the city or county has not entered into an enforceable agreement of committed assistance for all units specified in the programs adopted pursuant to subparagraph (A), (B), or (C) of paragraph (2), the city or county shall, not later than July 1 of the fourth year of the planning period, adopt an amended housing element in accordance with Section 65585, identifying additional adequate sites pursuant to paragraph (1) of subdivision (c) of Section 65583 sufficient to accommodate the number of units for which committed assistance was not provided. If a city or county does not amend its housing element to identify adequate sites to address any shortfall, or fails to complete the rehabilitation, acquisition, purchase of affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

(d) A city or county may reduce its share of the regional housing need by the number of units built between the start of the projection period and the deadline for adoption of the housing element. If the city or county reduces its share pursuant to this subdivision, the city or county shall include in the housing element a description of the methodology for assigning those housing units to an income category based on actual or projected sales price, rent levels, or other mechanisms establishing affordability.

**SEC. 3.** Section 65589.4 of the Government Code is amended to read:

**65589.4.** (a) An attached housing development shall be a permitted use not subject to a conditional use permit on any parcel zoned for an attached housing development if local law so provides or if it satisfies the requirements of subdivision (b) and either of the following:

(1) The attached housing development satisfies the criteria of Section 21159.22, 21159.23, or 21159.24 of the Public Resources Code.

(2) The attached housing development meets all of the following criteria:

(A) The attached housing development is subject to a discretionary decision other than a conditional use permit and a negative declaration or mitigated negative declaration has been adopted for the attached housing development under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). If no public hearing is held with respect to the discretionary decision, then the negative declaration or mitigated negative declaration for the attached housing development may be adopted only after a public hearing to receive comments on the negative declaration or mitigated negative declaration.

(B) The attached housing development is consistent with both the jurisdiction's zoning ordinance and general plan as it existed on the date the application was deemed complete, except that an attached housing development shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the attached housing development site has not been rezoned to conform with the most recent adopted general plan.

(C) The attached housing development is located in an area that is covered by one of the following documents that has been adopted by the jurisdiction within five years of the date the application for the attached housing development was deemed complete:

(i) A general plan.

(ii) A revision or update to the general plan that includes at least the land use and circulation elements.

(iii) An applicable community plan.

(iv) An applicable specific plan.

(D) The attached housing development consists of not more than 100 residential units with a minimum density of not less than 12 units per acre or a minimum density of not less than eight units per acre if the attached housing development consists of four or fewer units.

(E) The attached housing development is located in an urbanized area as defined in Section 21071 of the Public Resources Code or within a census-defined place with a population density of at least 5,000 persons per square mile or, if the attached housing development consists of 50 or fewer units, within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.

(F) The attached housing development is located on an infill site as defined in Section 21061.0.5 of the Public Resources Code.

(b) At least 10 percent of the units of the attached housing development shall be available at affordable housing cost to very low income households, as defined in Section 50105 of the Health and Safety Code, or at least 20 percent of the units of the attached housing development shall be available at affordable housing cost to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or at least 50 percent of the units of the attached housing development available at affordable housing cost to moderate-income households, consistent with Section 50052.5 of the Health and Safety Code. The developer of the attached housing development shall provide sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for very low, low-, or moderate-income households for a period of at least 30 years.

(c) Nothing in this section shall prohibit a local agency from applying design and site review standards in existence on the date the application was deemed complete.

(d) The provisions of this section are independent of any obligation of a jurisdiction pursuant to subdivision (c) of Section 65583 to identify multifamily sites developable by right.

(e) This section does not apply to the issuance of coastal development permits pursuant to the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

(f) This section does not relieve a public agency from complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or relieve an applicant or public agency from complying with the Subdivision Map Act (Division 2 (commencing with Section 66473)).

(g) This section is applicable to all cities and counties, including charter cities, because the Legislature finds that the lack of affordable housing is of vital statewide importance, and thus a matter of statewide concern.

(h) For purposes of this section, "attached housing development" means a newly constructed or substantially rehabilitated structure containing two or more dwelling units and consisting only of residential units, but does not include ~~a second- an accessory dwelling~~ unit, as defined by paragraph (4) of subdivision ~~(h)~~ (j) of Section 65852.2, or the conversion of an existing structure to condominiums.

**SEC. 4.** Section 65852.150 of the Government Code is amended to read:

**65852.150.** *(a) The Legislature finds and declares all of the following:*

*(1) Accessory dwelling units are a valuable form of housing in California.*

~~The (2) -Legislature finds and declares that second units are a valuable form of housing in California. Second units- Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. Homeowners who create second units benefit from added income, and an increased sense of security.~~

*(3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.*

(4) *Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.*

(5) *California faces a severe housing crisis.*

(6) *The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.*

(7) *Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.*

(8) *Accessory dwelling units are, therefore, an essential component of California's housing supply.*

(b) It is the intent of the Legislature that ~~any second-unit ordinances~~ *an accessory dwelling unit ordinance* adopted by a local ~~agencies have agency has~~ the effect of providing for the creation of ~~second~~ *accessory dwelling* units and that provisions in ~~these ordinances this ordinance~~ relating to matters including unit size, parking, ~~fees fees~~, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create ~~second~~ *accessory dwelling* units in zones in which they are authorized by local ordinance.

**SEC. 5.** Section 65852.2 of the Government Code is amended to read:

**65852.2.** (a) (1) ~~Any A~~ local agency may, by ordinance, provide for the creation of ~~second~~ *accessory dwelling* units in single-family and multifamily residential zones. The ordinance ~~may shall~~ do ~~any all~~ of the following:

(A) Designate areas within the jurisdiction of the local agency where ~~second~~ *accessory dwelling* units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of ~~second~~ *accessory dwelling* units on traffic ~~flow~~ *flow and public safety*.

(B) Impose standards on ~~second~~ *accessory dwelling* units that include, but are not limited to, parking, height, setback, lot coverage, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(C) Provide that ~~second~~ *accessory dwelling* units do not exceed the allowable density for the lot upon which the ~~second~~ *accessory dwelling* unit is located, and that ~~second~~ *accessory dwelling* units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use ~~permits. Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units.~~ *permits, within 120 days of submittal of a complete building permit application.* A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of ~~second~~ *accessory dwelling* units.

(b) (1) When a local agency ~~which that~~ has not adopted an ordinance governing ~~second~~ *accessory dwelling* units in accordance with subdivision (a) ~~or (c)~~ receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it adopts an ordinance in accordance with subdivision (a) ~~or (c)~~ within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall ~~grant a variance or special use permit for~~ *ministerially approve* the creation of ~~a second~~ *an accessory dwelling* unit if the ~~second~~ *accessory dwelling* unit complies with all of the following:

(A) The unit is not intended for sale *separate from the primary residence* and may be rented.

(B) The lot is zoned for single-family or multifamily use.

(C) The lot contains an existing single-family dwelling.

(D) The ~~second-~~ *accessory dwelling* unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(E) The increased floor area of an attached ~~second-~~ *accessory dwelling* unit shall not exceed ~~30~~ *50* percent of the existing living ~~area-~~ *area, with a maximum increase in floor area of 1,200 square feet.*

(F) The total area of floorspace for a detached ~~second-~~ *accessory dwelling* unit shall not exceed 1,200 square feet.

(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located:

(H) Local building code requirements ~~which~~ *that* apply to detached dwellings, as appropriate.

(I) Approval by the local health officer where a private sewage disposal system is being used, if required.

(2) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(3) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed ~~second-~~ *accessory dwelling* units on lots zoned for residential use ~~which~~ *that* contain an existing single-family dwelling. No additional standards, other than those provided in this subdivision or subdivision (a), shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an ~~owner-occupant-~~ *owner-occupant or that the property be used for rentals of terms longer than 30 days.*

~~(4) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any-~~ A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ~~second-~~ *accessory dwelling* units if these provisions are consistent with the limitations of this subdivision.

~~(5) A second unit which conforms to the requirements of-~~ *An accessory dwelling unit that conforms to* this subdivision shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use ~~which~~ *that* is consistent with the existing general plan and zoning designations for the lot. The ~~second-~~ *accessory dwelling* units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

~~(c) No local agency shall adopt an ordinance which totally precludes second units within single family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within single family and multifamily zoned areas justify adopting the ordinance.~~

~~(d)~~ (c) A local agency may establish minimum and maximum unit size requirements for both attached and detached ~~second-~~ *accessory dwelling* units. No minimum or maximum size for ~~a second-~~ *an accessory dwelling* unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings ~~which~~ *that* does not *otherwise* permit at least an efficiency unit to be constructed in compliance with local development standards. *Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.*

~~(e)~~ (d) Parking requirements for ~~second-~~ *accessory dwelling* units shall not exceed one parking space per unit or per bedroom. ~~Additional parking~~ *These spaces* may be ~~required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings-~~ *provided as tandem parking on an existing driveway.* Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon ~~specific site or regional topographical or-~~ fire and life safety ~~conditions, or that it is not permitted anywhere else in the jurisdiction-~~ *conditions. This subdivision shall not apply to a unit that is described in subdivision (e).*

(e) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

- (1) The accessory dwelling unit is located within one-half mile of public transit.
- (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(f) Notwithstanding subdivisions (a) to (e), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

~~(f)~~ (g) (1) Fees charged for the construction of ~~second-~~ accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section ~~66000~~; 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (f), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (f), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

~~(g)~~ (h) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ~~second-~~ accessory dwelling units.

~~(h)~~ (i) Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) ~~or (e)~~ to the Department of Housing and Community Development within 60 days after adoption.

~~(i)~~ (j) As used in this section, the following terms mean:

(1) "Living ~~area,~~ area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) ~~"Second-~~ "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. ~~A-second-~~ An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

~~(j)~~ (k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources

Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for ~~second-~~ *accessory dwelling* units.

**SEC. 5.5.** Section 65852.2 of the Government Code is amended to read:

**65852.2.** (a) (1) ~~Any A~~ local agency may, by ordinance, provide for the creation of ~~second-~~ *accessory dwelling* units in single-family and multifamily residential zones. The ordinance ~~may shall~~ *do any all* of the following:

(A) Designate areas within the jurisdiction of the local agency where ~~second-~~ *accessory dwelling* units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of ~~second-~~ *accessory dwelling* units on traffic ~~flow.~~ *flow and public safety.*

(B) (i) Impose standards on ~~second-~~ *accessory dwelling* units that include, but are not limited to, parking, height, setback, lot coverage, *landscape*, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) *Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.*

(C) Provide that ~~second-~~ *accessory dwelling* units do not exceed the allowable density for the lot upon which the ~~second-~~ *accessory dwelling* unit is located, and that ~~second-~~ *accessory dwelling* units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) *Require the accessory dwelling units to comply with all of the following:*

(i) *The unit is not intended for sale separate from the primary residence and may be rented.*

(ii) *The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.*

(iii) *The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.*

(iv) *The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.*

(v) *The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.*

(vi) *No passageway shall be required in conjunction with the construction of an accessory dwelling unit.*

(vii) *No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.*

(viii) *Local building code requirements that apply to detached dwellings, as appropriate.*

(ix) *Approval by the local health officer where a private sewage disposal system is being used, if required.*

(x) (I) *Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.*

(II) *Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.*

(III) *This clause shall not apply to a unit that is described in subdivision (d).*

(xi) *When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).*

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use ~~permits. Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units.~~ *permits, within 120 days after receiving the application.* A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of ~~second units.~~ *an accessory dwelling unit.*

~~(b) (4) (1) An~~ *existing ordinance governing the creation of an accessory dwelling unit by* a local agency ~~which has not adopted an ordinance governing second units in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it~~ *or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency* adopts an ordinance ~~in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a second unit if the second unit complies with all of the following:~~ *that complies with this section.*

~~(A) The unit is not intended for sale and may be rented.~~

~~(B) The lot is zoned for single-family or multifamily use.~~

~~(C) The lot contains an existing single-family dwelling.~~

~~(D) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.~~

~~(E) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.~~

~~(F) The total area of floorspace for a detached second unit shall not exceed 1,200 square feet.~~

~~(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.~~

~~(H) Local building code requirements which apply to detached dwellings, as appropriate.~~

~~(I) Approval by the local health officer where a private sewage disposal system is being used, if required.~~

~~(2) (5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.~~

~~(3) (6) This subdivision establishes the maximum standards that local agencies shall use to evaluate~~ *proposed second units on lots* ~~a proposed accessory dwelling unit on a lot~~ zoned for residential use ~~which contain that contains~~ an existing single-family dwelling. No additional standards, other than those provided in this ~~subdivision or subdivision (a),~~ *subdivision,* shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an ~~owner-occupant.~~ *owner-occupant or that the property be used for rentals of terms longer than 30 days.*

~~(4) (7) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any~~ A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ~~second units~~ *an accessory dwelling unit* if these provisions are consistent with the limitations of this subdivision.

~~(5) (8) A second unit which conforms to the requirements of~~ An accessory dwelling unit that conforms to this subdivision shall *be deemed to be an accessory use or an accessory building and shall* not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use *which that* is consistent with the existing general plan and zoning designations for the lot. The ~~second units accessory dwelling unit~~ shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

~~(e) (b) No~~ When a local agency ~~shall adopt an ordinance which totally precludes second units within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within single family and multifamily zoned areas justify adopting the ordinance.~~ that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

~~(d) (c)~~ A local agency may establish minimum and maximum unit size requirements for both attached and detached ~~second~~ accessory dwelling units. No minimum or maximum size for ~~a second~~ an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings *which that* does not permit at least an efficiency unit to be constructed in compliance with local development standards. *Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.*

*(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:*

*(1) The accessory dwelling unit is located within one-half mile of public transit.*

*(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.*

*(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.*

*(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.*

*(5) When there is a car share vehicle located within one block of the accessory dwelling unit.*

~~(e) Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings. Off street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction. Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.~~

*(f) (1) Fees charged for the construction of ~~second~~ accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section ~~66000~~: 66000) and Chapter 7 (commencing with Section 66012).*

*(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.*

*(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.*

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ~~second units~~; *an accessory dwelling unit*.

(h) Local agencies shall submit a copy of the ~~ordinances~~ *ordinance* adopted pursuant to subdivision (a) ~~or (e)~~ to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living ~~area,~~ *area*" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) ~~"Second-~~ *"Accessory dwelling* unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. ~~A-second-~~ *An accessory dwelling* unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) *"Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.*

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for ~~second-~~ *accessory dwelling* units.

**SEC. 6.** Section 66412.2 of the Government Code is amended to read:

**66412.2.** This division shall not apply to the construction, financing, or leasing of dwelling units pursuant to Section 65852.1 or ~~second-~~ *accessory dwelling* units pursuant to Section 65852.2, but this division shall be applicable to the sale or transfer, but not leasing, of those units.

**SEC. 7.** *Section 5.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Assembly Bill 2299. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill is enacted after Assembly Bill 2299, in which case Section 5 of this bill shall not become operative.*

**SEC. 8.** *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.*



*California*  
LEGISLATIVE INFORMATION

**AB-2406 Housing: junior accessory dwelling units.** (2015-2016)

**SECTION 1.** *Section 65852.22 is added to the Government Code, immediately following Section 65852.2, to read:*

**65852.22.** *(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:*

*(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence already built on the lot.*

*(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.*

*(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:*

*(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.*

*(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.*

*(4) Require a permitted junior accessory dwelling unit to be constructed within the existing walls of the structure, and require the inclusion of an existing bedroom.*

*(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.*

*(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:*

*(A) A sink with a maximum waste line diameter of 1.5 inches.*

*(B) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.*

*(C) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.*

*(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.*

*(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine whether the junior accessory dwelling unit is in compliance with applicable building standards.*

*(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. A permit shall be issued within 120 days of submission of an application for a permit pursuant to this section. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.*

(d) For the purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For the purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

**SEC. 2.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow local jurisdictions the ability to promulgate ordinances that create secure income for homeowners and secure housing for renters, at the earliest possible time, it is necessary for this act to take effect immediately.

## DRAFT MINUTES

### PLANNING COMMISSION REGULAR MEETING, TOWN OF PORTOLA VALLEY, SEPTEMBER 7, 2016, SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chair Hasko called the Planning Commission regular meeting to order at 7:00 p.m. Ms. Pedro called the roll.

Present: Commissioners McKitterick and Von Feldt; Chair Hasko

Absent: Commissioner Targ, Vice Chair Gilbert

Staff Present: Debbie Pedro, Planning Director

### ORAL COMMUNICATIONS

None.

### OLD BUSINESS

- (a) Determination of Floor Area Distribution, File #24-2016, 16 and 42 Santa Maria, Pensco Trust (Bylund)

Planning Director Pedro presented the staff report regarding their recommendation to approve the proposed distribution of the maximum total floor area of 4,960 square feet between the lots at 16 and 42 Santa Maria Avenue. She said that in 1998 a landslide had developed on the upper lot, pushing the house on the lower lot off of its foundation. She said that in 2008, the Town Council approved a deviation request to allow for a combined maximum floor area of 4,960 that could be split between the two parcels, with the floor area distribution as desired by the applicant, but requiring Planning Commission review and approval.

Planning Director Pedro said the project began this June, which included demolition of the existing residences on both parcels, improvements to the storm drainage system, and landslide repair. She said the project is expected to receive final sign off from the Town in the next few months.

Planning Director Pedro said the applicant is currently requesting an even distribution of the floor area with each parcel having 2,480 square feet. The approval of these floor area maximums, she said, would allow future owners of the property to develop residential plans for the parcels.

Planning Director Pedro said staff had received two e-mailed comments from neighbors subsequent to the distribution of the staff packet. She shared with the Commissioners the emails received from the downhill adjacent neighbor, Steve Toben, and from Jean Isaacson, the President of the Road Maintenance District.

Chair Hasko called for questions from the Commission.

Commissioner Von Feldt noted that the Town Council had previously approved the adjustment after lengthy discussion and asked what the Planning Commission was being asked to consider with this application. Planning Director Pedro said the Town Council wanted the Planning Commission to have the authority to approve the floor area distribution. She said that at the time of the Council's approval, it was understood that the floor area was going to be evenly distributed, and this process is meant to be a checkpoint to ensure that the owner does not propose something that is inconsistent with the prior discussions.

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Commissioner Von Feldt also noted comments in the previous reports regarding the project with regard to a carport versus a garage at 42 Santa Maria. She asked if that had been considered or was to be determined. Planning Director Pedro said no plans have been developed yet for the lots. She said the carport discussion occurred because the existing house at 42 Santa Maria had no covered parking. Planning Director Pedro confirmed that if a carport or garage was added, it would be included in the maximum floor area.

Commissioner Von Feldt said the Town Geologist had previously made a recommendation that the footprint not exceed 1,500 square feet. She asked if that was a requirement or a consideration. She said the development of each of the lots will be subject to review by the Town Geologist.

Planning Director Pedro said the project would not come before the Planning Commission again unless the applicants asked for a variance or the application gets appealed.

Commissioner McKitterick said he was familiar with this issue. He said the proposal is reasonable and the situation hasn't changed on the subject lots or surrounding properties. He said a 50/50 split works.

Chair Hasko called for comments by the applicant. There were none.

Chair Hasko called for comments from the public. There was none.

Commissioner Von Feldt said it was great that this was finally moving forward, and it seemed like a positive improvement for the neighborhood.

Commissioner McKitterick moved to approve the request to evenly distribute the maximum total floor area of 4,960 square feet between 16 and 42 Santa Maria Avenue. Seconded by Commissioner Von Feldt; the motion carried 3-0.

### COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

#### (a) Town Center Master Plan Update

Planning Director Pedro said the postcards have been mailed and the project has been publicized on the Town website, the PV Forum, and Next Door. She said there was also an article in the Almanac discussing the project.

Planning Director Pedro showed the website, [www.towncentermasterplan.com](http://www.towncentermasterplan.com), and described the various links. She said there are links where the public can vote on things they like about the Town Center, as well as an area for comments regarding suggestions for planning for the future of the Town Center. She said the comment period will be closed on September 20. She said staff will process the data and share it with the Committee approximately one week later. Staff will then present the information to the Town Council and then come before the Planning Commission sometime after that.

Commissioner ~~McKitterick-VonFeldt~~ said while reviewing the application presented today, she noticed comments by the Town Attorney regarding why the Town cannot consider economic arguments when making land use decisions. ~~Sh~~He asked what the official response was to that question. Planning Director Pedro said land use decisions are typically based on public health, safety, and welfare, and monetary considerations are not included in the decision making process. Commissioner Targ said in certain situations, economic considerations can essentially parallel what might be considered to be "reasonable." He said, however, the Commission's standard is more focused on the reasonableness for the community as opposed to the economic consideration.

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Commissioner McKitterick attended the ASCC meeting on August 8, 2016, where they discussed proposed modifications to a previously approved new residence at 20 Minoca Road. He said the applicant wanted to raise the house 2 feet, and the neighbors expressed concern regarding the impact on their views. He said the ASCC decided the proposed new design did not offset the neighbors' concerns regarding visual impact. He said the ceilings were higher than necessary on both the first and second floors. Planning Director Pedro said the applicant was ultimately allowed to raise the finished floor as long as the upper floor roof height did not change from the original proposal.

Commissioner McKitterick said at that meeting they also reviewed a proposed two lot subdivision at 40 Firethorn Way. Removal of the oak trees along Los Trancos Road was discussed because the trees were relatively recently planted, were in a linear row, and impeded the view of the hillside. The ASCC was also concerned regarding the proposed retaining wall along Los Trancos Road.

APPROVAL OF MINUTES: July 20, 2016.

Commissioner McKitterick moved to approve the minutes of the July 20, 2016, meeting, as amended. Seconded by Commissioner Von Feldt, the motion carried 3-0.

ADJOURNMENT [7:32 p.m.]

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### PLANNING COMMISSION REGULAR MEETING, TOWN OF PORTOLA VALLEY, OCTOBER 19, 2016, SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chair Hasko called the Planning Commission regular meeting to order at 7:00 p.m.

Present: Commissioners McKitterick, Targ, and Von Feldt; Vice Chair Gilbert; Chair Hasko  
Absent: None  
Town Council Liaison: Craig Hughes  
Town Staff: Debbie Pedro, Planning Director

#### ORAL COMMUNICATIONS

None.

#### NEW BUSINESS

Planning Director Pedro said that on October 12 the Town Council discussed housing in Portola Valley. One of the outcomes was the creation of an Ad-Hoc Committee to review and recommend potential housing on Town-owned properties. Planning Director Pedro asked for two Planning Commissioners to serve on the committee. Commissioner Targ and Chair Hasko volunteered.

- (a) Preliminary Review/Study Session of Conceptual Design of New Clubhouse, Renovation of the Historic Roadhouse, and Site Improvements, Alpine Hills Swim and Tennis Club, 4139 Alpine Road, File #s: 35-2016 and X7D-13.

Chair Hasko explained that three Commissioners are members of the Alpine Hills Swim and Tennis Club and need to be recused from this agenda item. However, since three Commissioners are needed for a quorum, the club members will draw straws to determine who will remain and participate in the discussion. After the straw draw, Commissioner McKitterick drew the short straw and remained on the dais. Commissioners Targ and Von Feldt were recused and left the room.

Planning Director Pedro presented the staff report. She said the ASCC and two members of the Planning Commission participated in a field meeting this afternoon, accompanied by several neighbors and club board members.

In response to Commissioner McKitterick's question, Planning Director Pedro said the use permit requires 124 parking spaces total, including 94 improved (paved) spaces. She said with this application, they are proposing to provide 108 improved parking spaces. She said the club is confident they can provide the 124 total parking spaces on-site, but the final parking plan has not been submitted at this time.

Vice Chair Gilbert asked how much excavation would occur below the building. Planning Director Pedro said it would be approximately 1 foot from the current elevation.

In response to Vice Chair Gilbert's question, Planning Director Pedro said that no structures are allowed in a setback; however, this application is requesting a play structure, a yoga deck, and a bocce ball court in the setback. Vice Chair Gilbert said she understands that the building is legal non-conforming, but asked if Windmill's uses (sandbox, play structures) had been allowed through a variance. Planning Director Pedro said Windmill School did not have any special permission for their sandbox and play structures. Vice Chair Gilbert asked if the proposed barbecue area was considered a structure. Planning Director Pedro said the barbecue is an addition to the current building so is

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considered to be a structure. She pointed out, however, that the sheds and other things in the setback would be removed as part of the project.

A member of the public asked for clarification regarding vacant residential parcel at the back of the club. Planning Director Pedro said there is a property of approximately one acre that was subdivided by the club a number of years ago. She said a single family home could be constructed on the property; however, the club never sold the property and it is still under the ownership of the club. She said with this application the club is intending to use that property. She said all three parcels are zoned residential estate (R-E), and the use permit is what allows the operation of the club on these R-E zoned properties.

Bob Adams, 11 Applewood Lane. Mr. Adams said he was president of the club in 1981 when they made the lot line adjustment. He said there was never an intent to actually execute a sale, but the club wanted to have the ability to sell it if they got into financial trouble or needed to raise money for development.

With no further public comment, Chair Hasko brought the item back to the Commission for discussion.

Vice Chair Gilbert said that the footprint of the new club house did not appear substantially larger, although the project is increasing from 9,400 square feet to 13,000 square feet. Planning Director Pedro pointed out on the renderings where the increased square footage would occur and said there was also an excavated area on the lower floor.

Vice Chair Gilbert asked about the location of the temporary facility to be used during construction. Ken Scates, of HGHB Architects, said the current thinking is that the temporary facilities would occupy the tennis court located above the upper parking lot. He said this idea has been supported by staff and local fire officials and also works well with regard to the construction activities. He said they are envisioning a triple-wide trailer to serve as the clubhouse, a single trailer for office functions, a cooking trailer, and a restaurant trailer. He said the members would be entering through Los Trancos Road. Mr. Scates said upon completion of construction, the tennis court would be repaired and reverted to the original use as a tennis court.

Commissioner McKitterick asked regarding the grandfathering rule as it relates to the Roadhouse and the structures that exist there now – the fence, shed, storage cabinets, and playground. Planning Director Pedro said the proposal is only to renovate the Roadhouse, with no expansion to the footprint. Commissioner McKitterick asked if the nonconforming fence in the setback could be replaced with another fence. Planning Director Pedro said the rule is that 25 percent of the length of the legal nonconforming fence can be rebuilt. She said the intent of the legal nonconforming structures ordinance is not to maintain a nonconforming structure in perpetuity, but that at some point the structure will be brought into conformance. Commissioner McKitterick asked if the rule applied item by item for everything in the setback, or if it all got grandfathered in. Planning Director Pedro said with this application, other than the Roadhouse building, all of the accessory structures will be removed except for the perimeter fence. She said if the applicant wants to rebuild the fence, it will require a variance. She said when the nursery school was approved in the 1970's, the Planning Commission granted a variance for the fence. In response to Commissioner McKitterick's question, Planning Director Pedro said the applicant could rebuild part of the fence under the grandfathering clause, and they could put tables and decking in the setback; but a bocce ball court, a barbecue, an outdoor fire pit, or other structures would require a variance.

Commissioner McKitterick asked if staff had received an answer regarding the impervious surfaces. Planning Director Pedro said the design has not been finalized; however, the club said they are

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confident that they will be able to adhere to the 59 percent maximum impervious surface area coverage limit.

Commissioner McKitterick asked regarding light spill. Planning Director Pedro said the ASCC mentioned at the field meeting today that lighting will be discussed extensively at their meeting next Thursday.

Commissioner McKitterick asked for clarification regarding building height restrictions. Planning Director Pedro said there are two height measurements – the vertical height of the building and the overall building height. She said the vertical height, at any point, cannot exceed 28 feet and the overall height measurement, which is measured from the lowest point of the building to the highest point of the building, cannot exceed 34 feet, including appurtances. Mr. Scates said the existing club house structure is over the 28-foot maximum at approximately 32 feet. Commissioner McKitterick pointed out this was irrelevant since the structure is being rebuilt.

Chair Hasko asked for confirmation that the request to move corporate events from the main building to the Roadhouse does not indicate an increased level of use. Joyce Chung, President of Alpine Hills, said the intent is to enable their day-to-day operation to continue even when they have a special event, so they can continue to serve members who are not participating in the special event. Mr. Scates said it was anticipated the building's use would decrease because the school, which was open five days a week, nine months out of the year, will not be there.

After hearing no additional questions, Chair Hasko closed the question session and invited public comment.

Phil Cianfichi, 4115 Alpine Road, said he lives in one of the three homes located behind the club. He said no one on the Commission had discussed the proposal to have trucks enter from Los Trancos Road for deliveries instead of Alpine Road. He said there is a very long road running along the border of the three homes that will be impacted by the trucks. He said the turnaround as depicted in the design plans is literally within 30 yards of his master bedroom. He said there is no such noise currently in their neighborhood, and these deliveries may be happening at all hours. He said all three of the neighbors are represented at this meeting tonight.

Ty Jagerson, 67 Los Trancos Road, said approximately 50 yards of his property line runs along the small road that is proposed to become a bigger road. He said the entire area is a park-like, dog-walking, local neighborhood area with children running around. He said having trucks in there will create a very different use of the area, and the noise issue is a concern. He requested that deliveries continue to occur at the front of the building, saying it seemed to be unnecessary to introduce trucks onto Los Trancos Road which disturbs that neighborhood.

Bob Adams, 11 Applewood Lane, said something needs to be done with the 60-year-old building because occupants of the current structure are in danger in the event of an earthquake. He said the building's current use, as well as the design, is similar to the Town Center. He said the club is trying to comply with the Town's requirements and that the project is very positive for the Town.

Planning Director Pedro said the applicant had prepared a presentation. Chair Hasko called for the applicant's presentation, stating they could resume with public comment after the presentation.

Joyce Chung, President of Alpine Hills, member of Alpine Master Planning Committee, and resident of Portola Valley, thanked the Commission for their service to the Town and consideration of their proposal. She described the history of the club and provided background information on the project. She said the club was originally designed to serve 250 member families, and they now have 700

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member families, per their amended conditional use permit. She said there is no intention to increase their membership beyond 700. She said 26 percent of the residents of Portola Valley are members at Alpine Hills, 67 percent of their club membership includes residents of Portola Valley, and 15 percent are residents of Woodside. She said due to the age of the facilities and the increased needs of their members, they began discussing improving the clubhouse and surrounding landscape 10 years ago. She said the facility is outdated and out of compliance with ADA and current health and safety regulations, which they would like to correct. She said the project was delayed for many years as they extended the lease of the Roadhouse to Windmill School while the school searched for a new site. The club's Master Planning Committee concluded that the most efficient and safest solution for their facility would be to rebuild the structure in essentially the same existing footprint. She said 70 percent of their membership voted, and the votes were 2 to 1 in support of the proposed design.

Ms. Chung said they originally planned to renovate the Roadhouse first, using that as a temporary clubhouse while they worked on the main clubhouse, but because Windmill's plans were delayed, the club shifted course and decided to start with the main clubhouse and develop a separate temporary facility, postponing the Roadhouse renovation project. Ms. Chung said the architect, Ken Scates, is LEED certified and very knowledgeable in green building design. She said Mr. Scates has an appreciation for the culture and feel of Alpine Hills and Portola Valley. She said the club has always strived to be a good neighbor, a good landlord, and a good resource for the community. She described the various Town events the club hosts. She said Windmill's departure will mean less people and cars at their facility. She said the traffic flow will be more efficient, and the delivery trucks will not block the road and bicycle lane on Alpine Road, which will improve safety for all. She said the club believes the changes will enhance the quality of life in Portola Valley.

Ken Scates, project architect, showed a slide presentation of the project. He described the preliminary research and studies conducted regarding the project. He said the proposed clubhouse is approximately one-third larger in total area, mostly due to the desperately needed expansion to the kitchen and other support areas. He said the one new functional addition to the clubhouse is a lower-level room for activities such as tennis tournaments, floor exercises, and aerobics.

Mr. Scates said the proposed turnaround will alleviate the congestion that occurs between the clubhouse and Alpine Road. He said although this slightly reduces the parking capacity in the front parking lot, even more is gained in the rear. He said key to the concept is that the service approach to the club would be from a different location. He said currently some delivery trucks arrive from Alpine Road, which is particularly hazardous and congested, and some trucks come off of Los Trancos to the upper parking lot which is a dead-end road with no turnaround. He said they are proposing a loop which will allow trucks to enter and exit and will also increase the parking capacity. He said the pathway for the service vehicles already exists and they are proposing to pave it.

Mr. Scates showed a diagram showing where the proposed increases of square footage are located in the building, and said it does not increase the apparent mass of the building. He said they are proposing to strip the interior of the Roadhouse and renovate, with the new use being a meeting/party room with a prep kitchen and bar and new restrooms. They are proposing to move the existing barbecue function to the outdoor eating area surrounding the Roadhouse. He said the intention is to preserve the historical integrity of the Roadhouse. He said they tried to keep the height of the club house building at, or lower than, the current building, with the exception of the chimney structure which can be easily modified.

Mr. Scates said they hoped to make the building more like a pavilion, glassy and transparent to the extent possible, while also reducing the necessary bulk of a building this size. He said their design follows the architectural guidelines regarding varied roof heights and planes, elements that cast shadows, etc. He said the historical roots of the building are rural architecture with nature materials. He

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said the goal is to keep a low profile building, but allow the space called for at the interior. He said from Alpine Road, the building appears small because the abundance of glass has the effect of reducing the overall mass of the building. He said at the lower level, there is currently a projection (the tennis lounge) that is a solid mass whereas the proposed design greatly reduces the appearance of massing.

Chair Hasko invited the public to resume comment.

Phil Cianfichi, 4115 Alpine Road, said his family moved to Portola Valley because of the school district and the community. He said he built his house following the rules and regulations of the Town, such as controlling light spill, selecting an air conditioner with a specific dB level of noise that would not bother neighbors, having less than 20 percent impervious surface on site, etc. He said the club's use permit is allowed 59 percent impervious surface coverage, which does not include the back road that will be paved. He said there has been substantial water runoff into his neighborhood that has caused an issue. He said there is water drainage on the road that runs along the back of the club, and that drainage often overflows and goes across the street into the creek, causing erosion of the area. He said, considering he was restricted as to the dB level of his air conditioning unit, he didn't think that the noise from delivery trucks would be allowed. He said he's lived there 11 years and has had no problem with truck deliveries at Alpine Road. He said the biggest concern of any parent with a child that walks to Corte Madera School from his side of Los Trancos is the intersection of Los Trancos and Alpine Road. He said people coming down the hill barely stop at the stop sign. He said it is already a dangerous intersection, and to add trucks coming out from that intersection onto Alpine Road will further increase that hazard. He asked the Commission to consider both the noise from the trucks coming off of Los Trancos and the length of the driveway that comes off Los Trancos all the way to the back of the club where the trucks will be driving.

Bob Adams said when they prepared the master site plan, the Town indicated the parking was a big concern, and the Town was very specific about pushing the parking to the rear of the site. He said this was not an arbitrary decision on the applicant's part, but was something that the Town asked for and was part of the Master Site plan.

Phil Cianfichi said the concern about the rear of the project is not the parking but the trucks. He said the neighborhood basically uses the area as a park and kids cross the street and walk up and down that back area. He said it's a long straight road, but it's dirt, and cars don't drive fast there. He said that paving that road will enhance the risk of speeding. He said that paving that area is a material change of use and a safety issue. He said for him and his neighbors, it will clearly cause impacts to property value and residents' sleep. He said it is not clear why the deliveries have to be moved to the back.

Joyce Chung said the deliveries, approximately two to three per day, are currently performed mainly along Alpine Road. She said they sometimes pull into the front of the entrance, which blocks traffic going into the parking lot, or they park on Alpine Road on the shoulder, which blocks bicyclists. She said some of the trucks already go through the back entrance via Los Trancos through the upper parking lot and drive in, unload, and then have to back out, activating their back-up beepers because there is no appropriate turnaround.

Eric Quaid, Alpine Hills General Manager, said there is only one very large truck delivery, and most deliveries are made with bakery-sized trucks.

With no further public comment, Chair Hasko brought the item back to the Commission for discussion.

Vice Chair Gilbert said she understood about getting the extra foot by digging down, but did not understand the reason for the increase in ceiling height on the second floor. She said it appeared,

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since the roof was sloped, that the ceiling height would be higher in the front versus the rear. She asked if there was a need other than a design feature for how that space is used.

Mr. Scates said it had to do with trying to maximize the amount of volume in a space. He said the forward-most point of the Alpine Room is approximately 17 feet, which is a minimum height for a 3,500-square-foot room. He said it has to do with scale. He said the peak of the Alpine Room is currently approximately 19 feet, and the proposal is probably 16 to 17 feet at the highest point in the Alpine Room. Planning Director Pedro said the diagram shows the highest point is at 19.6 feet.

Chair Hasko closed the public hearing and brought the discussion back to the Commission.

Commissioner McKitterick said Windmill was the first matter he heard when he came on the Planning Commission in January 2005. He said the club was renovating then, and he thanked the club for putting off their renovation plans specifically to accommodate the Windmill school.

Commissioner McKitterick said there are clear rules about the setback. He said he is open to considering a variance regarding the fence. He said the way the space is being used is not attractive when viewed from Portola Road and contains a large, dark fence and one or two big sheds in the front of the property along Alpine Road. Commissioner McKitterick said he would not want to see a decrease in the net number of parking spaces, including the overflow dirt parking in the rear. He said there are regular events at the club where parking overflows onto the street, which they would like to discourage.

Commissioner McKitterick said he would be open to considering a variance regarding the height given the current use, the unique characteristics of this property, and the central location. However, he said there would also be an issue of light spill, which is more of an ASCC concern, and a lighting plan addressing light spill would be required. He said he understands what the applicant is trying to accomplish, but said there are rules that have to be followed. Commissioner McKitterick said impervious surfaces must be addressed, as will water runoff. He said the Commission last dealt with delivery truck noise issues with Roberts Market. He said at that time they discussed disabling back-up alarms for morning deliveries, restricting the hours of delivery, and putting rules in place such as turning off the truck engines and not leaving them running. He said the Town has not received any complaints about noise from Roberts Market deliveries. He said with the Alpine Hills project they will want to discuss specifics such as when the deliveries are occurring, how often, and what rules can be implemented to mitigate impacts. He said if the noise turns out to be a nuisance, there should be an alternate plan in place. He said he assumed it would all be within the rules of the noise ordinance, but beyond those rules, there is a general concern that noise at 6:00 a.m. is different from noise at 5:00 p.m. Commissioner McKitterick said he would like to see a more secure internal bicycle parking area.

Vice Chair Gilbert said she is hopeful something can be worked out in terms of truck delivery restrictions. She said the neighbors need more understanding of exactly how many deliveries and the timing of them. She said she does not have a clear enough understanding of the traffic flow in the area with regard to the safety concerns at the Los Trancos driveway area. She said issues regarding the neighbors near the Roadhouse also need to be addressed. She said the setback may help, as well as informing the neighbors about the scheduling and frequency of events that will be there.

Vice Chair Gilbert said it is usually up to the ASCC to deal with the look and feel of new construction, but because the project is on the Alpine Road Scenic Corridor, she wanted to make a few comments. She said the General Plan helps maintain the rural character of Town. She said in one of the slides shared, although not a view from Portola Road, the massing and glazing looked more modern than would be expected in Portola Valley. She suggested possibly screening to minimize the urban look or suggested that perhaps minor design changes could be warranted. She was also concerned about

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light spill. Vice Chair Gilbert said the site does not have the circumstances that would normally warrant variances. She asked the applicant to consider alternatives, if possible, to reduce the height.

Vice Chair Gilbert said she understands the 20-foot side yard setback, but is not clear regarding the 75-foot front setback in terms of what can and cannot be done in the area in front of the Roadhouse. Planning Director Pedro said, in terms of requirements, the 75-foot scenic corridor setback functions the same as the 20-foot side yard setback; it's just a deeper setback. She said no structures are allowed in the setback. She said there are some amenities allowed, such as decking, chairs, and tables. Vice Chair Gilbert said it is somewhat linked to a variance with the fence. She said if it was an open-style fence, the setback area should be clear of structures to the degree possible. She said if the Commission supports a variance for the fence, then that is less of an issue because what's would be behind the fence would not visible. Planning Director Pedro said the original fence variance was granted because of the use for the nursery school. She said the Commission may discuss alternatives to the current fence because this is a change of use.

Chair Hasko said she is glad to see this project moving forward and said the efforts are significant. She said it is exciting to see the project move forward for the benefit of the members and the community. She said there are rules to deal with since the project is in the Scenic Corridor. She said if the Commission will be pressed to consider a variance from the default rules, the applicant should bring very specific requests and basis for those requests. She said, for example, specifics on what they want to do with the front fence should be provided in the proposal. She said she is familiar with the area in terms of traffic and understands those issues. She said adding trucks to the mix, in an area where there is already a prevalent inclination to speed, must be carefully considered and understood. She said they will need more specifics about the deliveries. She said it should be discussed if a circle would eliminate the need for backing up on a regular basis. She said those things should be considered for the neighbors' privacy and sense of peace. She said she would want to see a traffic analysis of the intersection.

Chair Hasko said she appreciated that the amount of glass will lighten the mass, but shares the light spill concern. She said that the project is in the Scenic Corridor, and it will be important to have a plan to mitigate the light spill. She said they had discussed tinted glass and different types of shades, which should be further explored, as well as descriptions provided of how they would be used to mitigate the light spill issue. She said the parking lot lights must also be considered. Chair Hasko said that while she understands the piece of the roof that goes out beyond the actual wall structure is great for people in the building, it does tend to increase the mass visually, especially from Alpine Road. She suggested the applicant examine the materials, paints, or finishes to see if there is a way to minimize the visual impact. Chair Hasko agreed with Commissioner McKitterick that the Commission must work within the existing rules. She said there are ways of looking at variances, and the applicant should clarify what they want and why.

Commissioner McKitterick asked how many traffic trips Windmill has every day at that location. Karen Tate said there were two sets of 24 children, one in the morning and one in the afternoon, which the parents drop off and then leave. Commissioner McKitterick said those 96 trips need to be figured in. He said he noticed that people prefer to park in the front. He said when there is no Windmill parking, there will be more room for members, and the number of people parking in the back may decrease.

Chair Hasko said the Commission will need more information regarding the impervious surfaces and the water flow issues.

In response to Mr. Quaid's question, Planning Director Pedro said the Public Works Director will look at the plan and see if there is a traffic study warranted. If so, staff will request the applicant submit a study to the Town.

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Chair Hasko concluded the preliminary review. Planning Director Pedro said that the ASCC will be reviewing the project at their meeting on October 27 at 7:00 p.m.

### COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

None.

### APPROVAL OF MINUTES: September 7, 2016.

The approval of minutes was postponed because Vice Chair Gilbert will be abstaining and Commissioner McKitterick has not yet reviewed them.

### ADJOURNMENT [8:40 p.m.]