



TOWN OF PORTOLA VALLEY
REGULAR PLANNING COMMISSION MEETING
765 Portola Road, Portola Valley, CA 94028
Wednesday, February 5, 2014 – 7:30 p.m.
Council Chambers (Historic Schoolhouse)

REGULAR AGENDA

Call to Order, Roll Call

Chairperson Gilbert, Vice-Chairperson Targ, Commissioners Hasko, McKitterick, and Von Feldt

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.

Regular Agenda

1. *Public Hearing: Proposed Amendment to Conditional Use Permit (CUP) X7D-161, AT&T Mobility, 4115 Alpine Road*
2. *Request for Waiver from Town Utility Undergrounding requirements, 151 Cervantes Road, Linebarger*
3. *Follow-up Study Session – Portola Road Corridor Plan*
4. *Continued Study Session – Housing Element Update Program*

Commission, Staff, Committee Reports and Recommendations

Adjournment:

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).

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

Date: January 31, 2014

CheyAnne Brown
Planning Technician



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Planning Commission
FROM: Tom Vlastic, Town Planner
DATE: January 30, 2014
RE: Agenda for February 5, 2014 Planning Commission Meeting

The following comments provide an overview of the items on the February 5th agenda.

Public Hearing -- Proposed Amendment to CUP X7D-161, Alpine Road Wireless Facility, AT&T Mobility

The enclosed January 29, 2014 staff report provides the background and evaluation of this request and offers a basis for planning commission conditional approval of the CUP amendment application. As explained in the staff report, the ASCC completed its review and recommendations on the project at the January 27th ASCC meeting.

Request for Waiver from Town Utility Undergrounding requirements, 151 Cervantes Road, Linebarger

The enclosed January 30, 2014 staff report from the deputy town planner provides the background and evaluation of this request and offers a basis for planning commission approval of waiver. The report also offers some suggestions for future consideration of similar such applications.

Follow-up Study Session – Portola Road Corridor Plan

This is on the agenda for follow-up to the discussion of the proposed corridor plan that took place at the January 22nd joint meeting of the planning commission and town council. The attached January 30, 2014 staff report from the deputy town planner has been prepared to facilitate follow-up discussion and commission direction being requested by staff at the February 5 commission meeting.

Continued Study Session -- Housing Element Update Program

This is a continuation of the study session that took place at the January 15th commission meeting. The attached January 30, 2014 staff report from the deputy town planner has been prepared to facilitate discussion at the February 5 meeting and provides updated

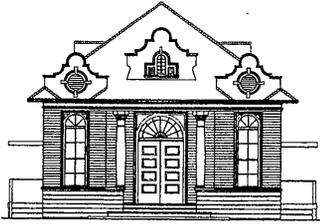
analysis of the Town's RHNA, a discussion of affiliated housing and the Ad Hoc Housing Committee's recommendation for expansion of that program, and follow-up information on State Density Bonus Law.

TCV

encl.

cc. Town Council Liaison
Mayor
Assistant Planner

Town Attorney
Town Manager
Deputy Town Planner



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Planning Commission
FROM: Tom Vlastic, Town Planner
DATE: January 29, 2014
RE: Request for Approval – Amendment to Conditional Use Permit X7D-161,
Existing AT&T Wireless Antenna Facilities, 4115 Alpine Road

Request, Background and Overview of Planning Commission Consideration, ASCC Review

On February 5, 2014 the planning commission is scheduled to conduct a public hearing on this use permit amendment request for modifications to existing AT&T Mobility (AT&T) wireless facilities at the subject Alpine Road site that is within the Alpine Road right of way (refer to attached vicinity map). The proposed amendments are explained and described in the materials which are listed below. Unless otherwise noted, these materials were provided to the planning commission with the packets for the December 9th and 18th, 2013 preliminary review meetings and can be accessed online at the town's website for these meeting dates:

- **June 27, 2013 letter from AT&T representative David Haddock, Wireless Acquisition Resources, Inc.** The letter describes the project and responds to a number of application requirements set forth in the town's wireless communications ordinance and questions raised by staff. *The letter is attached to this report.*
- **Project Plan Set (enclosed), revised through January 8, 2014.** This 17-sheet, "full size" plan set details the proposed ground mounted equipment changes, including the landscaping, and plans for the new antennas on the existing joint utility pole. Two new antennas would be added to the two existing and all four antennas would be mounted on an "H-Frame" extension on the Alpine Road side of the pole. These plans were revised to address ASCC aesthetic concerns and were considered and found conditionally acceptable by the ASCC at the January 27, 2014 ASCC meeting. *The revised plans are enclosed.*
- **Permanent Site Propagation Map-CCL05918, June 18, 2013.** This six-page document shows the existing and proposed service areas with the objective being enhanced LTE service coverage. As discussed and explained in the June 27th

application letter, the project objective is not to fill gaps in existing service, but to increase capacity and provide enhanced performance.

- **Executed Tower/Structure/Equipment removal bond.** This bond, dated 2/6/13, was provided as called for in existing CUP conditions.
- **ATT RF EME Compliance Report, EBI Consulting, October 8, 2013.** This report provides the required analysis of RF exposure relative to Federal standards. The report concludes no public issues with the RF conditions and only notes that under worst case conditions, workers above ground level and within 11 feet of the antenna could face exposure to power densities above FCC occupational limits. The report also advises of the safety signage that would be needed for the site.
- **Environmental Noise Assessment Report, EBI Consulting, October 17, 2013.** The report evaluates the projected noise from the proposed equipment cabinets against town noise standards and ambient conditions. It concludes that the changes in noise will be less than 3dBA and have "no appreciable impact" on existing noise levels and would also be in compliance with town noise ordinance standards.

The CUP amendment request was preliminarily considered at the December 9, 2013 ASCC meeting and December 18, 2013 planning commission meeting. The staff reports for these meetings with attachments are available online at the town's website. At these meetings, both ASCC and planning commissioners were made aware of the concerns of the neighbor, Mr. Chris Raanes, at 50 Bear Gulch Drive. His concerns are set forth in the reports for the meetings and the attached January 17, 2014 email with 8-page letter and January 27, 2014 follow-up email.

As planning commissioners are aware, several attempts were made set joint ASCC and planning commission meetings to view the existing/proposed wireless facilities from the neighbor's property but this was not possible due to Mr. Raanes' travel schedule. Eventually, the January 17th email with letter clarified his concerns and position as to the need to view the wireless facilities from his property.

On January 27, 2014, the ASCC conducted a second site meeting and planning commissioner Hasko was able to join the ASCC at this meeting. The meeting allowed the ASCC to consider the enclosed revised plans and how they responded to the ASCC comments offered in December. The ASCC also had the opportunity to consider the concerns of the neighbor. Based on the site meeting, the ASCC found the revised plans acceptable and, subject to conditions, concluded that the project represented a minor aesthetic change to existing conditions. CUP amendment approval was supported by the ASCC.

Based on the revised plans and neighbor concerns, staff developed a list of possible conditions that were shared with the ASCC at the January 27th meeting and supported by ASCC members at the meeting. These have been incorporated in the proposed resolution for action that is attached to this report. They focus on not only the aesthetics of the modified ground based and pole mounted equipment, but also on equipment and site maintenance (including required landscaping and control of invasive materials), emergency procedures, parking, site changes, etc. AT&T representative Mr. David Haddock was present at both the afternoon and evening 1/27 ASCC sessions when the revised plans and staff suggested conditions were discussed.

No public representatives have attended the ASCC or planning commission preliminary review meetings. Further, the only public comments received to date are those provided by the neighbor at 50 Bear Gulch Drive.

Ordinance Requirements, Town Policies for Wireless Communication Facilities

In order to grant an amendment to an existing use permit, the planning commission must make the findings called for in Section 18.72.130 of the zoning ordinance.

1. The proposed use or facility is properly located in relation to the community as a whole and to land uses and transportation and services facilities in the vicinity.
2. The site for the proposed use is adequate in size and shape to accommodate the proposed use and all yards, open spaces, walls and fences, parking, loading, landscaping and such other features as may be required by this title or in the opinion of the commission be needed to assure that the proposed use will be reasonably compatible with land uses normally permitted in the surrounding area and will insure the privacy and rural outlook of neighboring residences.
3. The site for the proposed use will be served by streets and highways of adequate width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
4. The proposed use will not adversely affect the abutting property or the permitted use thereof.
5. The site for the proposed use is demonstrated to be reasonably safe from or can be made reasonably safe from hazards of storm water runoff, soil erosion, earth movement, earthquake and other geologic hazards.
6. The proposed use will be in harmony with the general purpose and intent of this title and the general plan.
7. When this title or the town general plan specifies that a proposed use shall serve primarily the town and its spheres of influence, the approving authority must find that it is reasonable to conclude, based on the evidence before it, that the proposed use will meet a need in the town and that a majority of the clientele of the proposed use will come from the town and its spheres of influence within the near future, normally no more than two years. In general, in making such finding, the approving authority shall, in addition to other information, explicitly take into consideration all similar uses in the town and its spheres of influence.

Evaluation

In this case, most of the staff evaluation on the AT&T CUP Amendment request is contained in the referenced materials associated with the December 2013 ASCC and planning commission reviews and the January 27, 2014 ASCC meeting. The planning commission also received the report for the January 27th meeting and report copies with attachments are available online at the town's website. The following comments relative to the necessary

findings are based on these evaluations, the January 27th ASCC actions and discussions with the town attorney.

The following comments are offered relative to the findings required under Section 18.72.130.

1. **Proper community location.** The existing permit, amended in 2010, is for antennas mounted on the existing joint utility pole at the subject site to serve nearby residences and in-vehicle coverage along Alpine Road. The change is only to respond to technology service changes as is being seen with all carriers, and not to expand coverage area. When the original use permit was granted the commission found the site proper for wireless service and the current proposal represents, as the ASCC concluded, minor changes to the existing facilities and, as noted in the application materials, improved service. We conclude that the facility is still proper in terms of community location. We respect the concerns of the neighbor relative to site maintenance and control of emergency conditions and potential for unauthorized changes. At the same time, the primary authority of the town is to control the aesthetics of the facilities and, subject to the conditions recommended herewith, we conclude the proposed aesthetic changes would be minor relative to existing conditions. We have reviewed this matter with the town attorney and she concurs with the evaluation.
2. **Adequacy of Site.** The site was found adequate for the use with the original permit approval and, based on the ASCC's January 27th site evaluation relative to the revised plans, it was again found adequate. Again, this is subject to the conditions recommended with the attached proposed action resolution.
3. **Adequacy of adjacent streets and roads.** The existing facility has been used and maintained with no significant impact on adjacent streets and roads. Thus, it appears that this finding can again be made. Our concerns on access have to do with the energy situation as well as the construction effort for the proposed improvements, which the applicant has advised would take roughly 15 days. We have included conditions to address the construction process, and an encroachment permit from the public works director will be needed before the proposed improvements could be made.
4. **Adverse affects on abutting property or permitted use thereof.** As noted above, the owner of the property to the west has expressed concern over the visual impacts of the existing and proposed replacement antennas and equipment. Even if the antenna were not on the pole, the pole would remain with the other existing utility equipment and wires. The ASCC considered the concerns and concluded that the changes, subject to the recommended conditions, were minor in terms of visual impacts.

It is also noted that the pole is located in an area that at the time of the 2010 amendment was part of the Alpine Road utility undergrounding district. At that time it was anticipated that, with the district in place, it was likely that within a five to seven year period the existing utility pole would be eliminated. For this reason, we were able to place a five-year life on the 2010 permit amendment, but did include the possibility of extension if it is determined that the utility undergrounding would not proceed as anticipated.

Recently, the underground district was modified due to funding realities and now the facilities location is no longer in the underground district. Thus, removal of the existing pole is not likely to occur in the foreseeable future. As a result, the modified CUP

conditions provided with the attached proposed action resolution include extending the permit life to 10 years from the 2010 amendment, i.e., to October of 2020.

5. **Site safe from natural hazards.** The site is not in a flood plain and, based on review of the town's map of movement potential, it appears to be on stable slopes, but adjacent to a Ps area. There have been no indications of slope problems associated with the existing pole. Thus, the antenna and proposed equipment locations on the existing utility pole and adjacent to it appear safe from natural hazards. If, however, a new pole were to be proposed, then additional site investigations might need to be considered.
6. **Proposed use in Harmony with the purpose and intent of the zoning ordinance and general plan.** Again, as a conditional use, a wireless communication facility is permitted in all zoning districts as long as it is to primarily serve the town and its spheres of influence (Section 18.36.020.D.). As the coverage maps show, this facility is primarily to serve residences, on street and in-vehicle coverage within the Alpine Road corridor.

Beyond service, the key issues relative to zoning conformance are aesthetic impacts and conformity with the noise standards. The aesthetic impacts are discussed above. We reiterate that while utility poles are not considered attractive, placement of antenna on existing poles is preferred to construction of new poles that would add to the clutter along the town's roadways.

As to noise, as discussed above, the applicant has provided a noise analysis that conforms to town noise standards..

7. **Service to the town and its spheres of influence.** As shown on the wireless facility coverage map, the specific objective of this proposal is to continue to provide AT&T wireless service to specific existing AT&T coverage areas of the town.

Compliance with the California Environmental Quality Act (CEQA)

Based on the evaluations provided above, including ASCC review and considerations by the town attorney, the use permit amendment application is categorically exempt under the provisions of the CEQA guidelines pursuant to Sections 15301 (existing facilities) and 15305 (minor alterations to land use limitations).

Recommendations for Action

If the planning commission determines it can make the required CUP findings and, unless information presented at the public hearing leads to other determinations, the actions outlined below are recommended for the use permit amendment request.

1. **Environmental Impact.** Move to find the CUP amendment project categorically exempt under the provisions of the CEQA guidelines pursuant to Sections 15301 (existing facilities) and 15305 (minor alterations to land use limitations).
2. **CUP Application.** Move to make the findings required by Section 18.72.130 (zoning) of the Municipal Code and approve the proposed CUP amendment application as set forth in the attached proposed Resolution No. 2014-1.

TCV

A handwritten signature in black ink, appearing to be 'TCV' with a checkmark-like flourish.

Attach.

Encl.

cc. Karen Kristiansson, Deputy Town Planner
Nick Pegueros, Town Manager
Jeff Aalfs, Town Council Liaison
Leigh Prince, Town Attorney
David Haddock, AT&T
Ann Wengert, Mayor

RESOLUTION NO. 2014-1

RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF PORTOLA VALLEY GRANTING AT&T MOBILITY AMENDMENT TO CONDITIONAL USE PERMIT X7D-161 FOR MODIFICATIONS TO EXISTING WIRELESS COMMUNICATION FACILITIES LOCATED IN THE ALPINE ROAD RIGHT OF WAY ADJACENT TO 4115 ALPINE ROAD

WHEREAS, AT&T Mobility has applied for amendments to Conditional Use Permit X7D-161 regulating existing wireless communication facilities located in the public Alpine Road right of way on and at the base of an existing joint utility pole adjacent to 4115 Alpine Road; and,

WHEREAS, the requested amendments are to specifically replace and add to existing pole mounted antennas and ground based equipment; and

WHEREAS, the amendments were preliminarily considered at publicly noticed Planning Commission and Architectural and Site Control Commission (ASCC) meetings in December of 2013, including a December 9, 2013 site meeting and, after the preliminary review, the amendment requests were modified to respond to input received and then reconsidered at a January 27, 2014 ASCC site regular evening meetings; and

WHEREAS, at the January 27, 2014 ASCC meeting the ASCC concluded that the revised plans addressed comments provided at the December 9, 2013 meeting and, as a result, the modified plans were viewed as minor changes to existing conditions, subject to the conditions recommended by the ASCC as included in Exhibit A of this resolution; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on the revised amendment applications at the regular Commission meeting of February 5, 2014; and

WHEREAS, the during the course of the public hearing, the Planning Commission heard and considered reports from the Town Planner and public input and evaluations of the amendment applications; and

WHEREAS, based on the evaluations in the staff reports it has been determined that the project is a minor change to the existing facilities and includes, with new use permit conditions, minor changes to land use limitations, the project can be found to be Categorically Exempt from the provision of the California Environmental Quality Act (CEQA), pursuant to CEQA Sections 15301 (existing conditions) and Section 15305 (minor alterations to land use limitations); and

WHEREAS, at the February 5, 2014 public hearing, the Planning Commission considered the information presented with the January 29, 2014 report from the Town Planner, the recommendations of the ASCC and public comments and closed the public hearing.

NOW, THEREFORE, be it **RESOLVED** that the Planning Commission:

1. Finds the project Categorical Exempt from the provision of the California Environmental Quality Act (CEQA), pursuant to CEQA Sections 15301 (existing conditions) and Section 15305 (minor alterations to land use limitations); and
2. Makes the findings to support the use permit amendments as set forth in in the January 29, 2014 staff report; and
3. Approves the amendment to Conditional Use Permit X7D-161 subject to the *Conditions* set forth in attached Exhibit A to this Resolution.

PASSED AND ADOPTED at the regular meeting of the Planning Commission of the Town of Portola Valley on February 5, 2014.

For:

Against:

Absent:

By: _____
Chair Gilbert

Attest: _____
Town Planner, Tom Vlastic

EXHIBIT A. PLANNING COMMISSION RESOLUTION No. 2014-1
Conditions of Approval
AT&T Mobility Wireless Facilities, 4115 Alpine Road
Conditional Use Permit X7D-161
As Amended February 5, 2014

1. This amended conditional use permit is issued to AT&T Mobility (AT&T) for modification to the existing AT&T facilities at the subject property in accordance with the 17-sheet plan set received by the town on January 13, 2014, dated January 8, 2014, and the project descriptions provided in the June 27, 2013 application letter from David Haddock on behalf of AT&T.
2. The permit shall run with the site and be binding on any future owner of the wireless facilities. The permit shall be valid until October 16, 2020. If there is any change in ownership of the wireless facilities authorized by this permit, the town shall be notified as soon after the ownership change as possible but no later than 60 days after a new owner is in place. AT&T or any future owner of the facilities shall be responsible for any town costs associated with the periodic review of the permit or any other town reviews required by permit conditions.
3. Prior to installation of the modified and new facilities as provided for with the January 8, 2014 project plans, the applicant shall apply for and receive an encroachment permit from the town's public works director. In addition, the following conditions shall be addressed to the satisfaction of planning staff and a designated ASCC member prior to issuance of construction permits for the facilities modifications:
 - a. The planting plan (Sheet L-1) shall be revised to add at least three (3) Toyon shrubs on the west, uphill side to screen views to the residence uphill along Bear Gulch Drive. The intent is to have some screening to a height over the top of the equipment cabinets for filling in of view screening from above.
 - b. The building permit plans shall specifically provide that all ground-mounted equipment, including cabinets, boxes, equipment racks, conduit, etc., shall be painted dark brown. In addition, the plans shall specify that all pole mounted AT&T equipment, including antennas, mast, racks and exposed cables or conduit, shall be painted dark brown so as, to the extent possible, blend with the color of the pole. If any coding of wires, cables, conduit, etc., is needed it shall be done so as to not impact the objective of minimizing the visual presence of the installation.
 - c. The plans shall specify that any exposed cables or conduit shall be managed so as to minimize visual clutter to the extent reasonably possible.
 - d. Signage shall be the minimum necessary to satisfy FCC regulations. Further, all necessary signage shall be identified on the building permit plans in terms of design, size, placement, etc. Every effort shall be made to minimize the visual impact of sign location within the Alpine Road corridor and no signage shall be installed without prior town approval.
 - e. A detailed time schedule and construction staging plan shall be provided that includes any period when it will be necessary to stage construction from Alpine Road

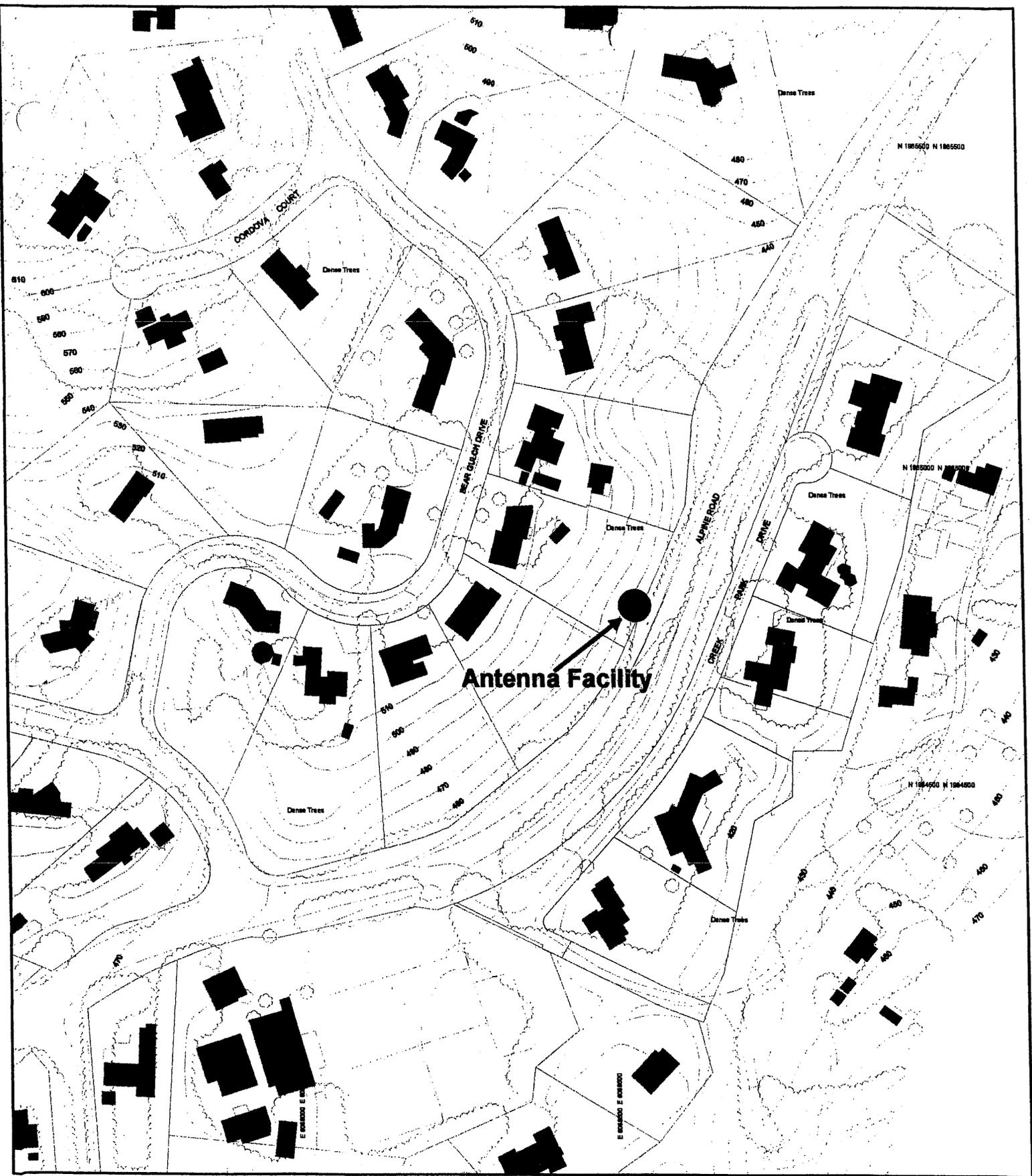
that would impact road use. All work shall be done within the normal town allowed construction hours. Once the construction schedule is approved, it shall be implemented to the satisfaction of town staff.

- f. Prior to start of work, the applicant shall inform all adjacent neighbors, as identified by town planning staff, of the construction schedule and hours. If any changes are needed, prior notification for town approval shall be requested and the neighbors shall be informed of any schedule changes approved by the town prior to initiation of the modified work schedule.
 - g. The plans shall be modified, if possible, to ensure that the all pole-mounted antennas are as close to the pole as possible without jeopardizing the function of the antennas or increasing height of the pole or mounting heights for the antenna.
 - h. The final plans shall specify locations for on-going maintenance parking to the satisfaction of the public works director. This shall be for only temporary, incidental parking and no permanent parking spaces shall be established.
 - i. A "normal" maintenance schedule shall be provided that addresses the typical pattern of site maintenance anticipated for the site and equipment. The procedures for emergency maintenance shall also be outlined and the responsible contact person(s) for normal and emergency maintenance identified. The emergency procedures shall provide for prior contact of the town and notification of neighbors.
 - j. A photo record of all preconstruction conditions shall be provided of the facilities and of all surrounding site conditions.
4. Following completion of the facilities modifications authorized by this use permit amendment and prior to sign off of the building permit the following conditions shall be met:
- a. A site inspection shall be conducted by planning staff and a designated ASCC member to ensure the installations are in conformity with the provisions of this permit. Further, a photo record of all post construction site conditions shall be provided to the satisfactions of planning staff.
 - b. The existing agreement, with bonds, between AT&T and the town guaranteeing maintenance of the site and facilities and removal of the wireless facilities if they are no longer used shall be reviewed by the town attorney and modified as determined necessary by the town attorney relative to the facilities changes authorized by this use permit amendment. The agreement and bonding shall be modified as determined necessary by town attorney and executed by AT&T.
5. Within 18 months of the sign off of the building permit(s) for the site modifications, a designated subcommittee of the ASCC (i.e., two members) shall inspect the site to ensure that all plantings remain in place and are in good condition. If any plants need to be replaced, they shall be replaced by the permit holder expeditiously to the satisfaction of the designated ASCC members. Further, if the ASCC subcommittee determines that any additional screen planting is necessary to achieve the objectives of the original approval the AT&T shall do so according to the schedule requested of the subcommittee.

6. After the initial 18-month site check by the ASCC sub-committee, the site shall be periodically inspected by staff and the ASCC to ensure compliance with the conditions of this permit. The foregoing notwithstanding, the ASCC shall conduct a site check every two years, or sooner if issues arise, to ensure permit compliance and the ASCC findings shall be reported to the planning commission. The permit holder shall be responsible for all town costs to administer the provisions of this permit.
7. The equipment site and area around it shall be maintained in a clean condition at all times. In addition, the permit holder shall be responsible for periodic maintenance and removal of exotic and invasive plant materials in a manner acceptable to town planning staff and the conservation committee.
8. If any emergency conditions occur requiring site maintenance, the established emergency procedures shall be followed as set with condition 3i of this permit.
9. If project construction or any future maintenance or emergency repair parking or any construction parking or other maintenance or construction activities result in over compaction of soil so that normal grass regrowth is inhibited, then the soils shall be repaired and reseeded for erosion control, with provisions for temporary irrigation as may be determined necessary to the satisfaction of the public works director.
10. Any site signage beyond that authorized by condition 3d. shall only be permitted subject to prior review and approval by the ASCC.
11. No additional carrier to AT&T shall be permitted on the existing utility pole. The planning commission may, however, permit AT&T to be replaced by a different carrier if it determines that the new carrier provides similar services and coverage to AT&T, or provides other or additional wireless services serving the needs of the town. Any replacement carrier shall be subject to the conditions of this permit and shall so acknowledge in a written statement or agreement to the satisfaction of the town attorney.
12. On an annual basis, the permittee shall furnish data to the satisfaction of town staff verifying compliance with town noise ordinance standards and all FCC requirements including radio frequency emission standards. If standards are exceeded, the permittee shall advise of the steps to be taken to bring the facilities into compliance, and the town shall then be advised when compliance has been achieved. Unless compliance is achieved within 60 days, the town may take steps to revoke or modify the conditions of this permit. In addition to the foregoing, within 30 days after the new equipment is in operation, noise measurements shall be taken at the site verifying the calculations provided in the October 17, 2013 noise assessment by EBI Consulting.
13. AT&T or any future permit holder shall defend, indemnify and hold harmless the town, its agents and officers and employees from any claim, action, or proceeding related to the town's approval of this use permit.
14. As new technology becomes available, the permit holder shall upgrade the facility as feasible to minimize impacts upon the community, including aesthetic impacts. If the facility is not upgraded, as feasible, within a reasonable amount of time, the town may take steps to revoke or modify the conditional use permit. The provisions of this condition shall be considered by the town staff at the time of each required two-year review. Specifically, the applicant shall provide a report to the town on the state-of-the-

art as to wireless service and less intrusive technology that is available. If the information demonstrates that less intrusive technology is readily available or becoming available, and feasible to employ at the site, the report shall set forth a time frame for site conversion. The framework for determining feasibility of conversion shall be as set forth by the town attorney.

15. If AT&T or any future holder of this permit desires to make physical changes to the approved facilities, such proposed changes shall be submitted to the town planner for review. If the town planner finds the proposed changes to be of a minor nature and consistent with the general provisions of this permit, the town planner may approve them. If he considers the changes to be more significant, but not of a magnitude to require conditional use permit amendment, he may refer them to the planning commission for review. If the commission determines the changes are consistent with the general provisions of the permit, it may approve the changes.



vicinity Map

Scale: 1" = 200 feet

Conditional Use Permit X7D-161, AT&T Mobility
Adjacent to 4115 Alpine Road, Town of Portola Valley
August 2010

Wireless Acquisition Resources, Inc.

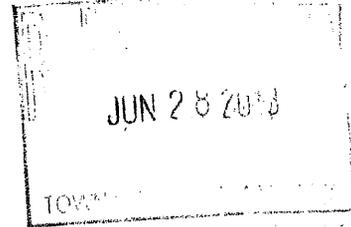
June 27, 2013

RECEIVED

Steve Padovan
Interim Planning Manager
Town of Portola Valley
765 Portola Road
Portola Valley, CA 94028

JUL 16 2013

SPANGLE ASSOC.



Re: Revisions to Application to Modify Existing AT&T Wireless Telecom Facility
Near 4115 Alpine Road, Portola Valley
AT&T#: CNU5918
Previously Approved Permit #X7D-161

Dear Mr. Padovan,

Please accept these revisions to the planning application, previously submitted, which proposes modifications to an existing AT&T wireless telecommunications facility near 4115 Alpine Road, in Portola Valley. The wireless facility is currently operating under the amended conditional use permit # X7D-161, which was effective on October 16, 2010.

In recent months, AT&T has been working on two separate projects at this location. One of them involves the UMTS upgrades mentioned below. The other involves work and equipment that would interconnect this wireless facility with the AT&T telecommunications network using fiber optic cables. Currently, there is a third project to add two (2) additional antennae the existing pole. These separate projects have now been combined into this single proposal. Please change the name of the applicant on the prior application to AT&T Mobility and myself David Haddock as agent for AT&T Mobility, and correct the contact info so that it matches the info included at the bottom of this letter.

This project proposes to replace some existing wireless telecommunications equipment, and to add additional wireless equipment, in the equipment space on the ground, near the JPA utility pole where the antennas are mounted. This proposal also includes the addition of two (2) antennae. This proposal is part of an AT&T project to provide UMTS services in and near Portola Valley, and throughout its wireless network. Details describing the work proposed are included with the drawings submitted with this application.

UMTS (Universal Mobile Telecommunications System) is a third generation mobile cellular system for networks based on the GSM standard. UMTS offers significant advancements over prior networks in terms of data rates, network latency, and mobile reliability. These advancements will allow users to stream their favorite movies with less buffering, download documents and presentations in seconds, load websites quickly, etc.

The Planning department requested several particular pieces of information. Requests and responses are included below.

1. *Provide a map depicting coverage at maximum power and design capacity identifying any significant gaps in coverage.*

A coverage map, showing all AT&T wireless facilities near the Town of Portola Valley, is included with this application. However, please bear in mind that the purpose of this proposed project is not to fill gaps in coverage. AT&T is proposing to make upgrades to an existing facility that has been operating for many years. At this time, AT&T is reasonably satisfied with the coverage provided by the facility in its current location. Accordingly, this proposal is not designed to fill gaps in coverage, but is rather designed to provide upgraded performance and services. For this reason, the coverage maps that are included with this proposal do not show any significant changes in coverage.

2. *Description of the proposed approach for screening the existing and new equipment from public view including plans for installation and maintenance of landscaping, and sample exterior materials and colors.*

AT&T is proposing to modify an existing wireless communications facility that has been operating for many years. The site is currently screened through the use of landscaping. AT&T proposes to maintain similar landscaping in future years as the primary approach for screening the equipment. The project proposes a chainlink fence, painted to blend with the environment, in order to secure the equipment. AT&T is willing to install a more opaque fence, such as one made from redwood, or to add slats to the proposed chainlink fence, if the Town prefers that the equipment be more completely screened.

3. *A narrative description of the service providers existing coverage area and of the proposed coverage area of the specific site that is the subject of the application.*

AT&T proposes to modify an existing wireless communications facility that has been operating near 4115 Alpine Road for many years. AT&T is not proposing to move the facility from its current location. The modifications are not proposed for the purpose of accomplishing any new coverage objectives; the wireless facility already provides adequate coverage for the areas it is designed to serve. Rather, the modifications are proposed in order to increase capacity, and provide enhanced performance and services to AT&T's customers. This proposal will offer substantial benefits to the residents of Portola Valley.

Because of dramatic changes in technology over recent decades, the “capacity” of a telecommunications facility is no longer measured by how many copper wires are attached to a telephone switch, or even by how many simultaneous telephone calls may be processed. Modern telecommunications networks treat all traffic simply as “bits” – small pieces of data that may be part of a telephone call, a text message, an Internet web page, a video, or any number of other things. All traffic is simply data. There are of course limits to the amount of data that a single facility like this one can handle. Wireless delivery of a video, which typically uses a large amount of data, has a much greater impact on the capacity of a wireless facility than does the wireless delivery of a text message. Because of this, the number of telephone calls that can be handled at any given moment depends upon what other users are doing – how many e-mails are being retrieved, how many web pages are being delivered, how many videos are being watched, etc. Thus, it is impossible to describe “capacity” in terms of total calls, etc.

What we can say is that the proposed work will essentially double the amount of traffic that can be handled by the facility at any given moment. To analogize, AT&T is proposing to increase the size of this information highway from two lanes to four lanes. This should lead to a substantial increase in the facility’s ability to provide modern telecommunications services. Because the “capacity” of the site at any given moment depends upon the mix of services being provided, it is safe to say that all services will benefit.

In addition to increasing the number of lanes on the information highway, the proposed upgrade will also increase the speed limit for traffic using those lanes. The proposed upgrades to the wireless facility will allow maximum data transfer speeds of approximately 10 times the rate possible with the facility in its current state. This means web pages will load much more quickly, e-mail will arrive faster, internet videos will load more quickly and play more reliably. The faster a given e-mail, or internet video, can be delivered, over time, the sooner the wireless facility will be free to carry other data, which benefits all users.

In short, AT&T proposes to make substantial improvements to its wireless facility, by essentially doubling capacity for the site, by increasing data speeds by approximately 10 times, and by improving coverage. These are substantial benefits. On the other hand, AT&T is not proposing any increase in the height of the antennas, and is proposing only a modest increase in the overall size of the facility compared to what had been previously permitted. This is a considerable amount of benefit, with little cost to the Town of Portola Valley or its residents.

- 4. A visual analysis to assess the effects on views and aesthetics from public areas and from private residences and to address cumulative impacts of the proposed facility and other existing and foreseeable wireless communications facilities, including foreseeable co-location facilities.*

Photographs showing the wireless facility in its current state, and photosimulations showing the likely appearance of the facility after the proposed work is completed, are included with this application. AT&T proposes to continue to screen the facility from public view mainly through the use of plants and shrubs. However, AT&T would provide an opaque fence (or would perhaps install slats in the proposed chainlink fence) to more completely screen the facility from view, if requested by the Town.

5. *A report by an approved radio frequency expert estimating the cumulative radio frequency emissions and compliance with FCC OET Bulletin 65 that would result if the proposed facility is approved.*

Radiofrequency emissions analysis is included with this application. The report includes cumulative analysis, and indicates that the facility will meet FCC emissions standards.

6. *An alternative site analysis, submitted by the applicant and subject to independent expert review by the Town.*

Alternative site analysis is typically required when wireless carriers are proposing to build a new wireless facility, and must explain the reasons why a particular location was chosen. For this proposal, AT&T is not proposing to locate a new wireless facility in Portola Valley, but rather to modify a facility that has been operating in Portola Valley for many years (alternative site analysis was likely provided before the site was constructed, years ago). Because a new facility is not being proposed, the Planning Department agreed via e-mail to waive the alternative site analysis. At this time, AT&T is satisfied that the location of this facility adequately meets its coverage objectives, and with the modifications proposed, will achieve AT&T's objective of increasing capacity and providing enhanced services to its customers in the vicinity of the facility. Because this facility works in concert with other AT&T wireless facilities to cover a large geographical area, moving this facility to a significantly different location would make achieving coverage objectives difficult. It would also likely create new aesthetic issues in any new location.

7. *Provide a written narrative showing how the applicant has complied with all previous Use Permit conditions on the site.*

The prior use permit conditions required AT&T to apply for and obtain an encroachment permit prior to installing new facilities. AT&T applied for and received encroachment permit number 1868 in July, 2011. The prior permit also required AT&T to enter into an agreement to maintain the wireless facility, to remove equipment that is no longer used, and to post a bond to guarantee this obligation. Although AT&T has not complied with these requirements previously, a bond guaranteeing AT&T's obligation to maintain or remove the wireless facility is included with this application. The prior permit requested data verifying

Wireless Acquisition Resources, Inc.

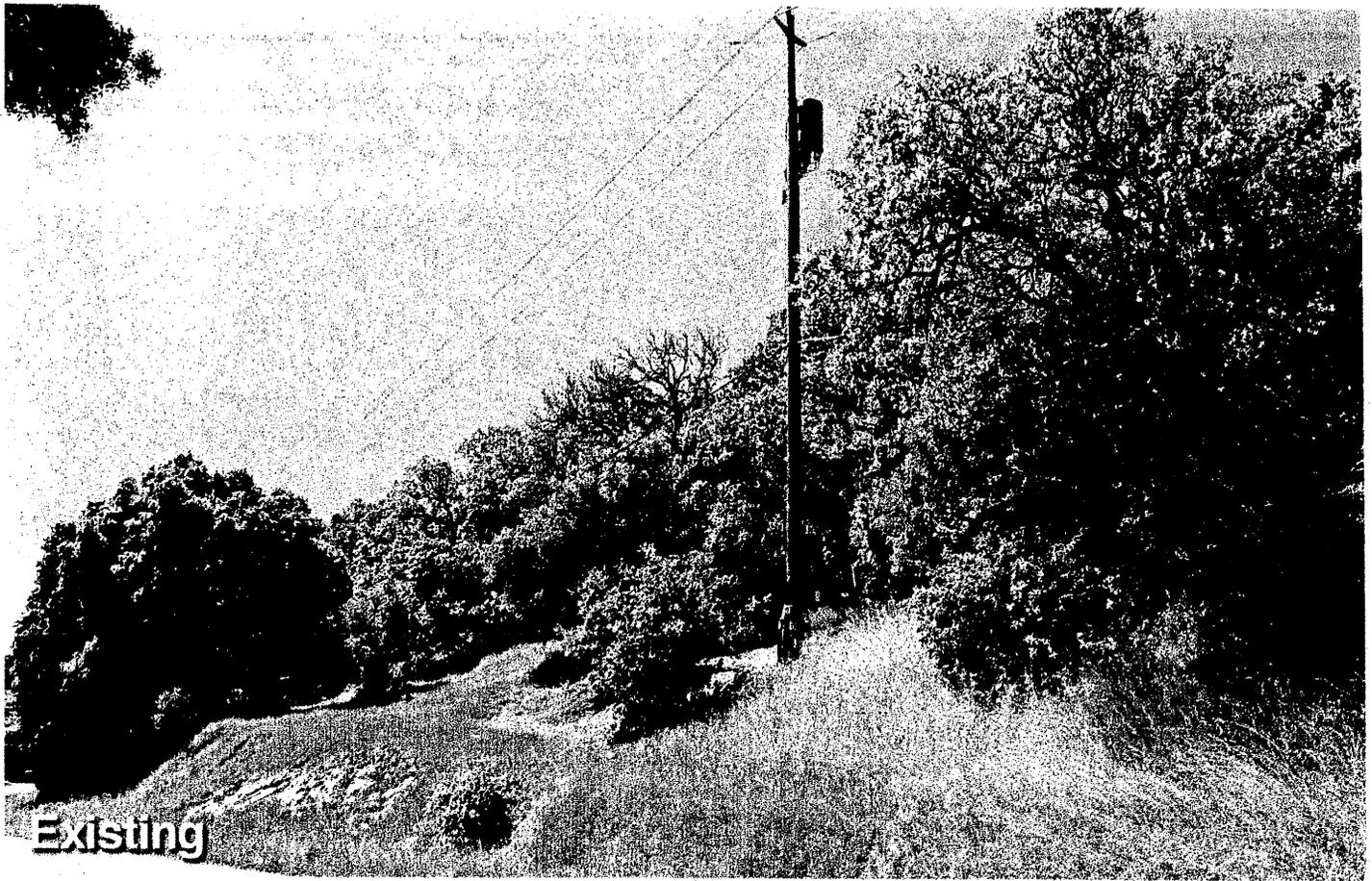
compliance with the Town noise ordinance, and with FCC radio frequency emission standards. Appropriate reports covering each of these subjects are included with this application. The prior permit required AT&T to upgrade the facility as new technology becomes available. AT&T is complying with this obligation via the present application. The prior application required AT&T to submit proposed physical changes to the facility to the town planner for review. AT&T is also complying with this obligation via the present application.

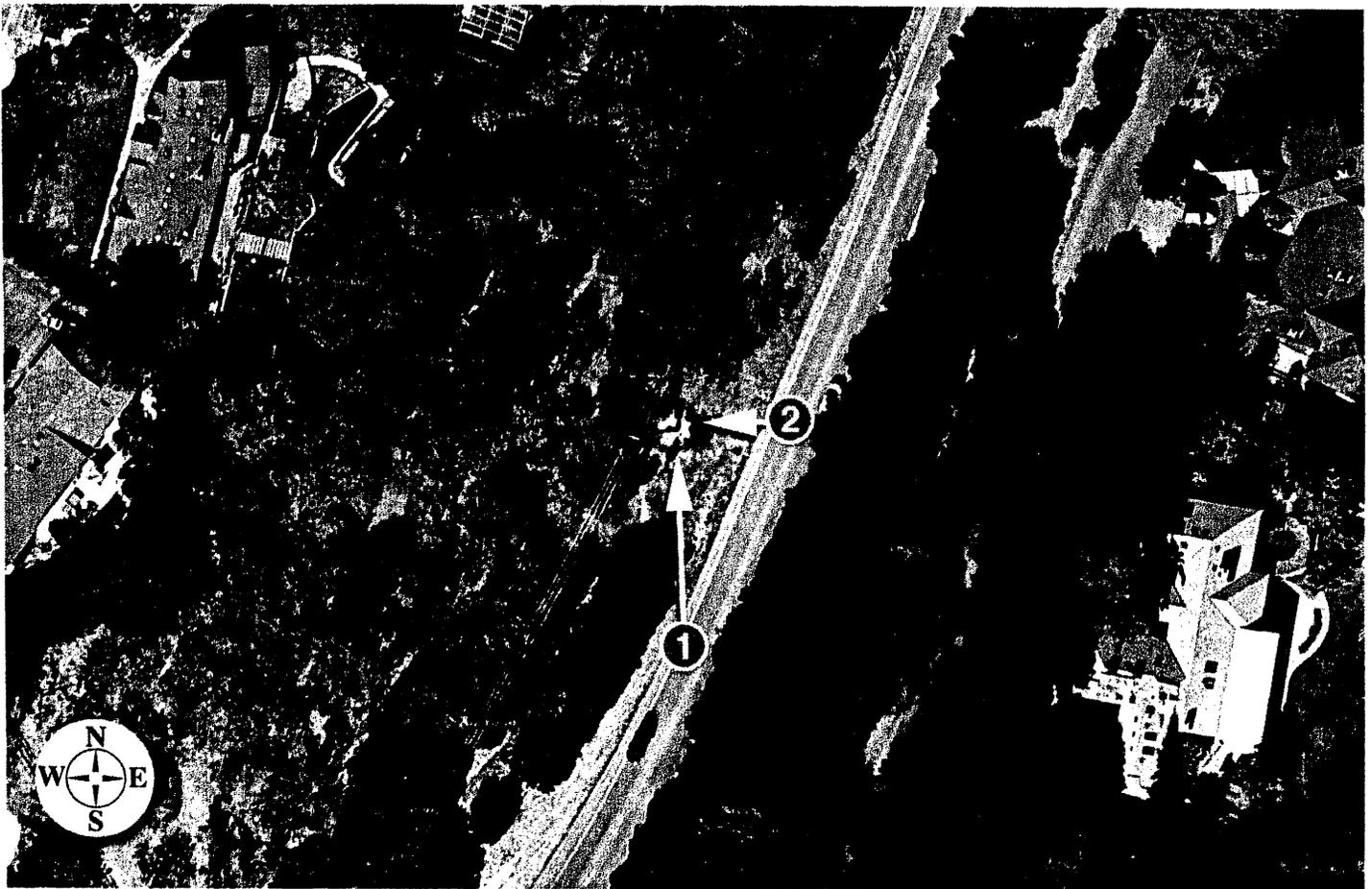
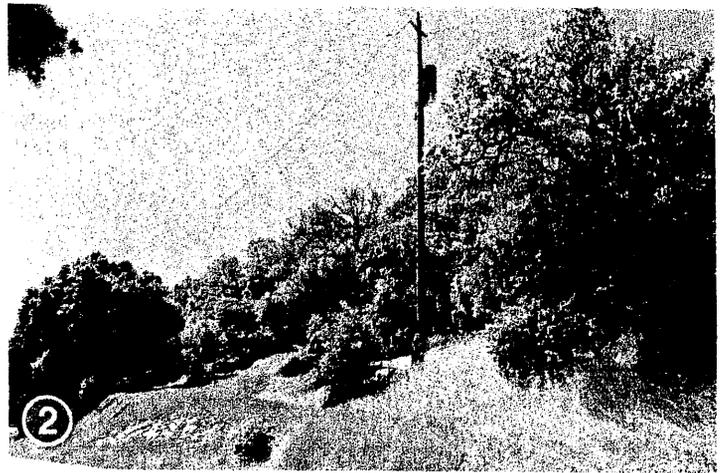
AT&T will provide such other documents and information as may be requested by the town to make the necessary determinations.

Thank you for your consideration of this matter.

Sincerely,

David Haddock
Wireless Acquisition Resources, Inc.
An Authorized Representative of AT&T Mobility
324 Riverside Avenue
Roseville, CA 95678
916-420-5802
dh@sacq.net



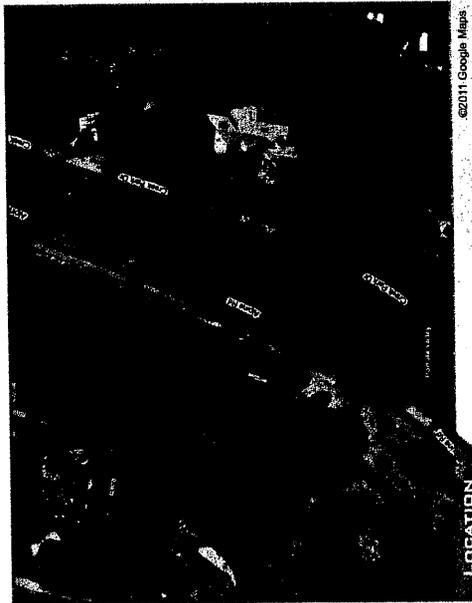




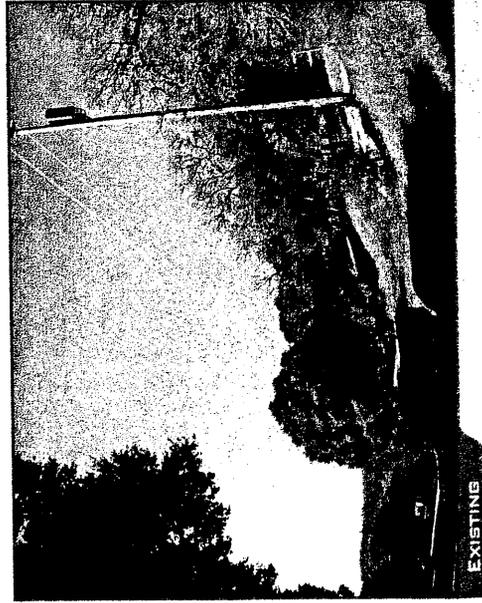
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ALPINE

ALPINE ROAD PORTOLA VALLEY CA 94028

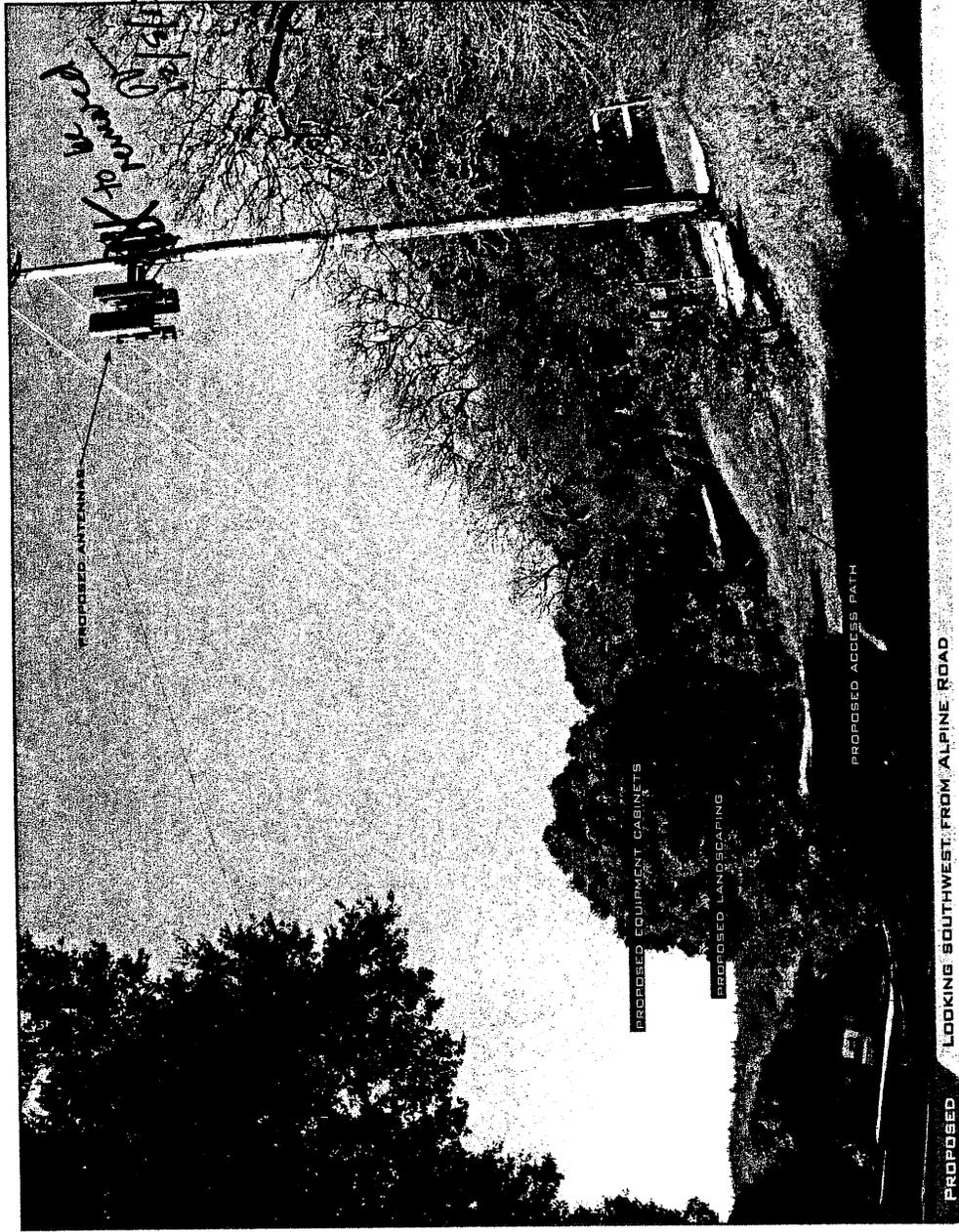
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TOWN OF PORTOLA VALLEY



LOCATION



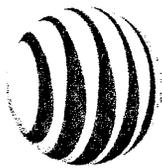
EXISTING



PROPOSED LOOKING SOUTHWEST FROM ALPINE ROAD

SPANGLE ASSOC. AGENCY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

SEP - 1 2011

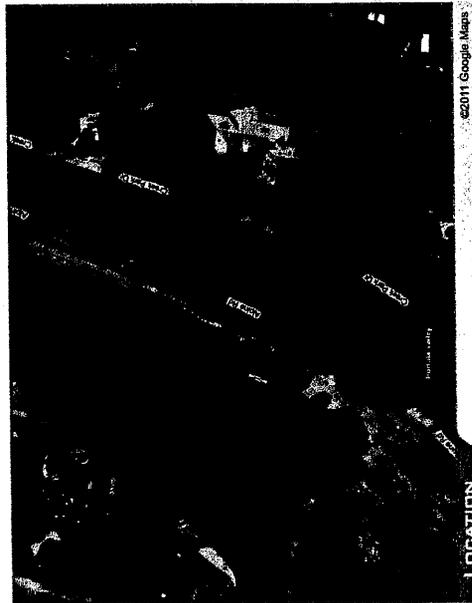


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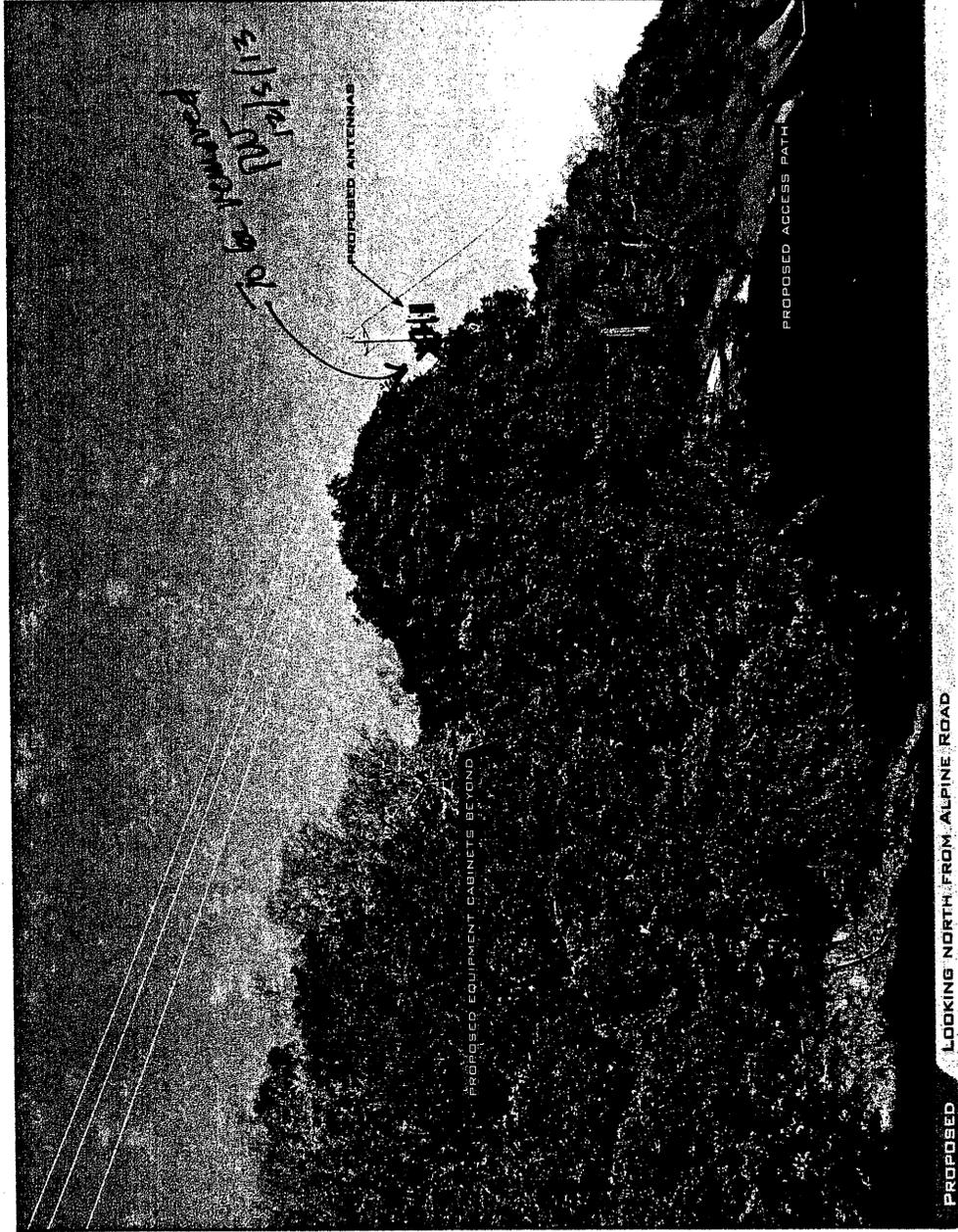


LOCATION

©2011 Google Maps



EXISTING



PROPOSED LOOKING NORTH FROM ALPINE ROAD

ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

From: Chris Raanes craanes@comcast.net
Subject: Meeting today
Date: January 27, 2014 at 7:02 AM
To: vlastic@spangleassociates.com
Cc: Melanie Raanes melanie.mauldin@comcast.net

Dear Tom,

As you know, I travel often, including today. I'm flying to St Louis at noon. Your 4PM meeting will not work for us.

I think it's ok to skip viewing the pole from our property. The main argument is about the unacceptable aesthetics as seen from the road, the ever-growing size of the equipment, the impact to the community, the noise when they are present, the fact that they intrude on our weekends, the frequency with which they show up, the size of crews it takes just to maintain the equipment – a dozen cars parked on Alpine, not infrequently. All these facts clearly show that the original concept of a pole mounted unit that blends in has long been exceeded.

The current state of affairs borders on unacceptable. The new proposal has crossed the boundary of reasonableness.

What's being proposed is commercial/industrial and belongs elsewhere. Have them consider hiding it behind a parking lot, off the main road, perhaps behind the Alpine Hills parking lot.

I hope we can make that argument to the town leadership successfully. We need to preserve the way of life we all bought into when we moved to Portola valley.

Thanks,

Chris

From: **Melanie Raanes** melanie.mauldin@comcast.net
Subject: **Promised Comments**
Date: **January 17, 2014 at 12:08 PM**
To: vlastic@spangleassociates.com
Cc: **Chris Raanes** craanes@comcast.net

Hi Tom,

As you probably know, my husband, Chris Raanes, is out of the country, so I'm helping him get these comments to you. Thank you very much for working with us on this issue.

I was not sure if these were supposed to also go to the other members of the Town Council. I cc'd Chris so he can forward them if that was his attention. Also, we'd love your input--if you think it is a good time to distribute these more broadly to the Council, let me know and I am happy to do so with a brief intro that we have been discussing this issue with you.

Thanks again for your help. The pdf file with comments and photos is attached.

Sincerely,
Melanie Raanes



Dear Tom,

We understand that AT&T has requested a permit to modify the cell phone site on Alpine Road near Golden Oak Drive. Here is a summary of our thoughts on this proposal, and our experience with the cell phone site that has been at this location for several years.

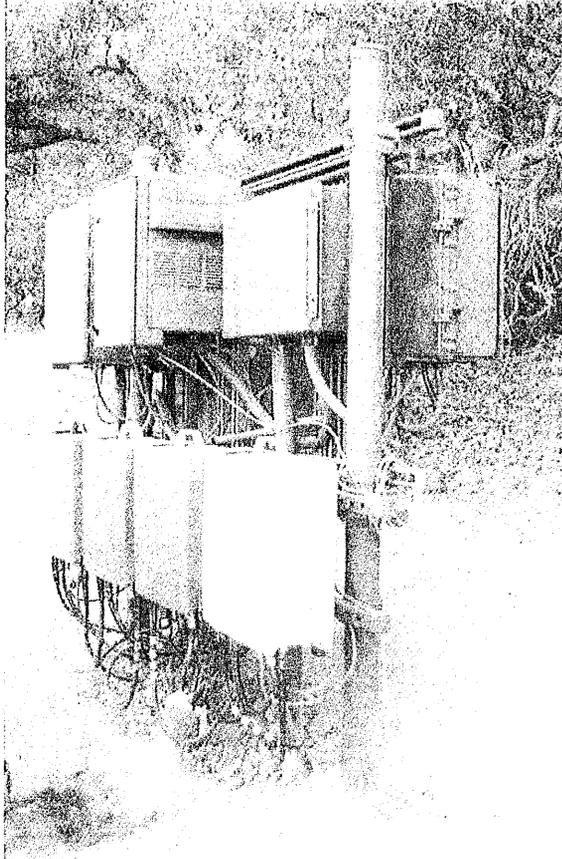
We want to start by posing the following question:

Do you think residents of Portola Valley know what's being proposed to the beauty of their town? Do you think that double antennas hanging over the road and major new equipment visible along Alpine is consistent with town aesthetics? If we allow AT&T to modify this site as proposed, wouldn't that send a signal that the Town does not mind having large, industrial-looking equipment in people's yards, and open the door to the company requesting additional sites on other properties around town? Have the people had their opportunity to voice their concerns?

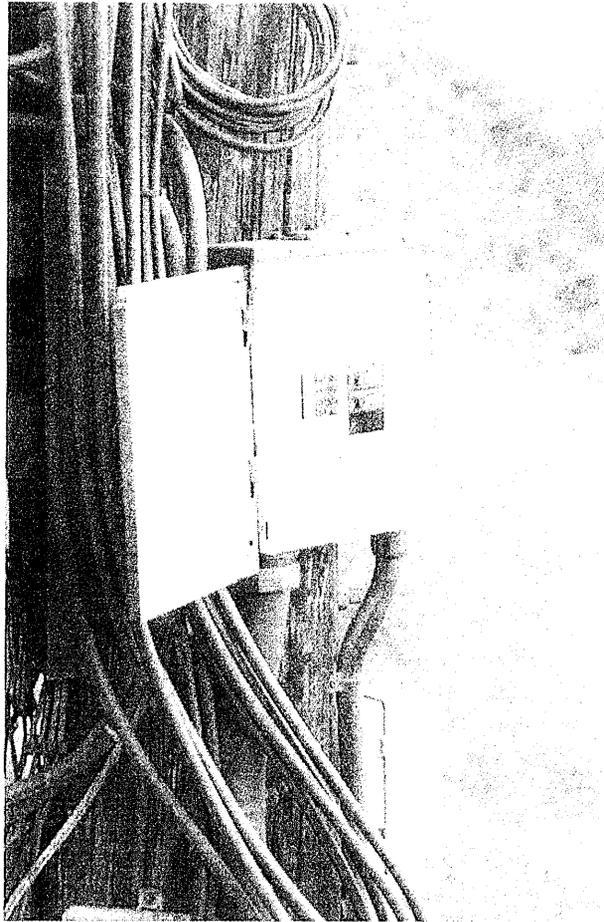
Our argument to the government of Portola Valley is that the proposed permit for 'modifications' to the cell phone site on Alpine Rd, across from Alpine Hills Tennis club, should not be approved.

- This proposal is fundamentally a start over. The proposal is to change every piece of equipment currently at the site, changing to larger and more unsightly equipment, and adding antennas that would hang over Alpine Road. This is essentially an attempt by AT&T to get a larger site in place without the public process, without consideration of alternate locations, and without the opportunity for public debate that normally accompanies such a decision.
- We, the Town, seem to believe that we are unable to oppose any desire of AT&T. That is not correct. We have the ability to enforce our zoning laws and to protect our way of life, to defend the aesthetics of Portola Valley.
- By AT&T's own admission, in the proposal, this is not a matter of coverage. This is a desire, not a need, and therefore cannot be imposed on us.
- We do not believe that having large double antennas hanging off phone poles around the town is in keeping with the Town's desired aesthetics.
- When this site was originally proposed, it was sold as blending in. It consisted of all phone pole mounted boxes, all painted brown, and a small antenna. While not anyone's first choice, it was seen as a reasonable compromise.

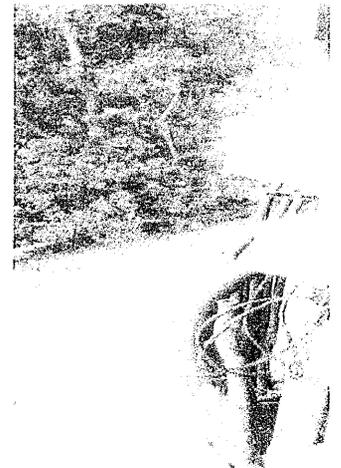
- It has already grown out of proportion – the pole mounted boxes have been augmented with a large, unsightly frame (pictured below); the antennas have grown; this is beyond what was initially sold to the Town and should be reversed.



This is the state of the equipment on Sunday,
January 12, 2014



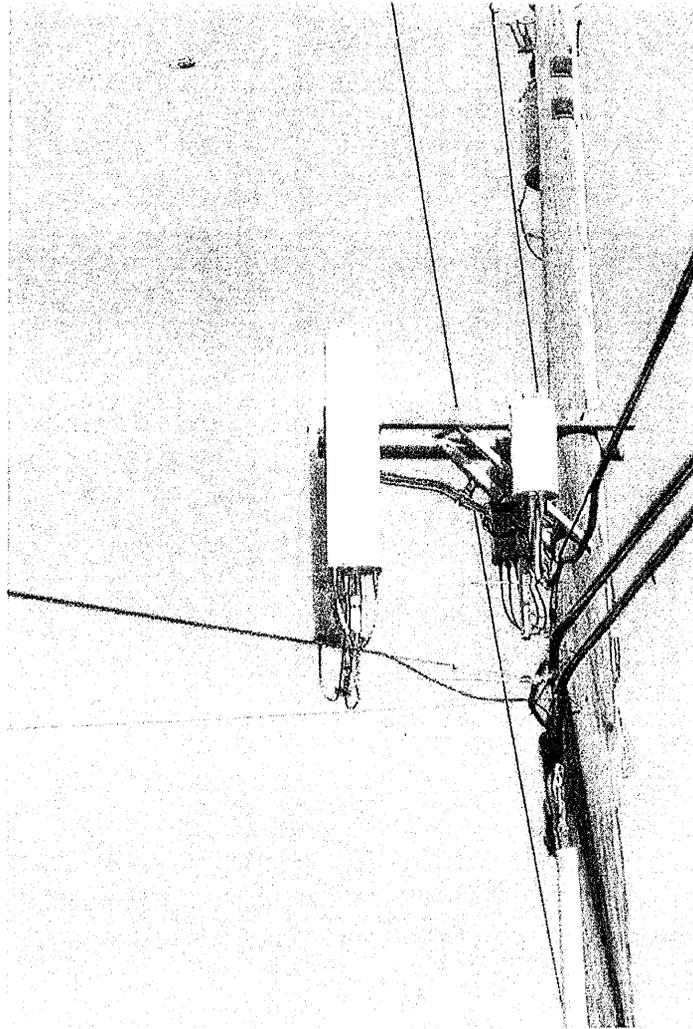
- This is not atypical of the appearance of the site over the last years and is further evidence that this is NOT compatible with a residential neighborhood. AT&T is treating it like an industrial site – schedule does not matter, appearance does not matter. This cannot be allowed to grow.



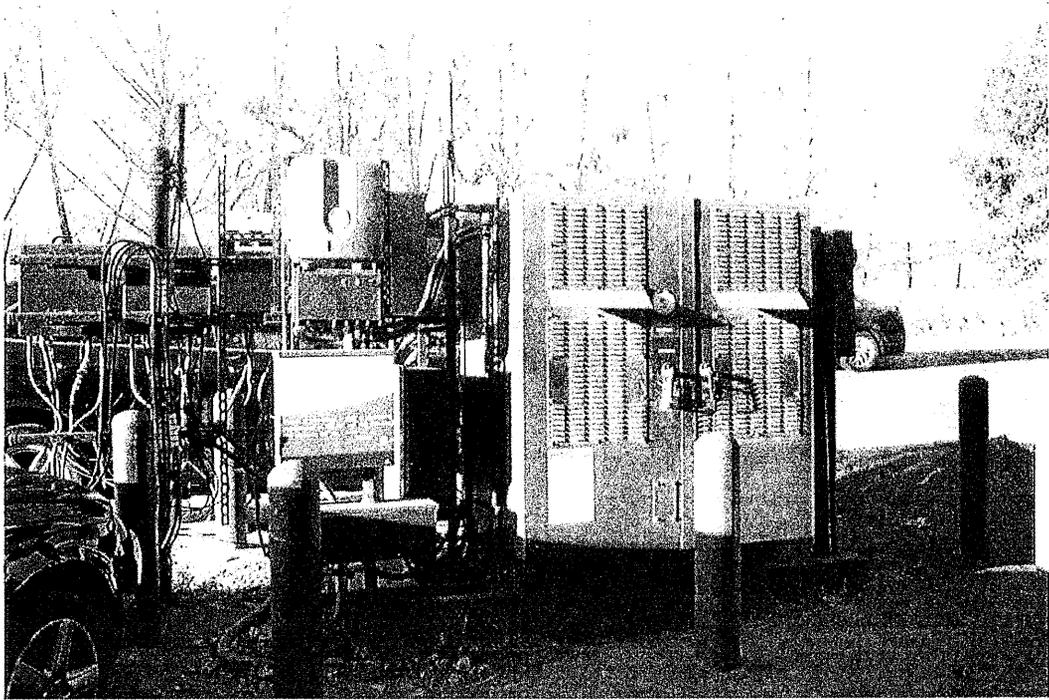
Not only has the site grown beyond what was initially approved, it has not conformed to the original proposal. It has frequently had workers and numerous vehicles on site, and it has not been left in a clean, orderly fashion. For example, note that the 'finished product' does not conform to the original promise of painted brown boxes. This open electrical box shown in the photo is not atypical of the state of equipment. Equipment has been left overnight at the site; yellow tape has been left flapping in the breeze. This is not the promise given that the site would "blend in." And this is all BEFORE AT&T "modifies" the site.

Under the existing permit, we have seen up to seven vehicles parked on the site at one time to service the equipment. Recently, there was a cherry picker working on site. Crews were out on Thanksgiving weekend, and on two of the following three weekends. We often drive past the site and see crews working.

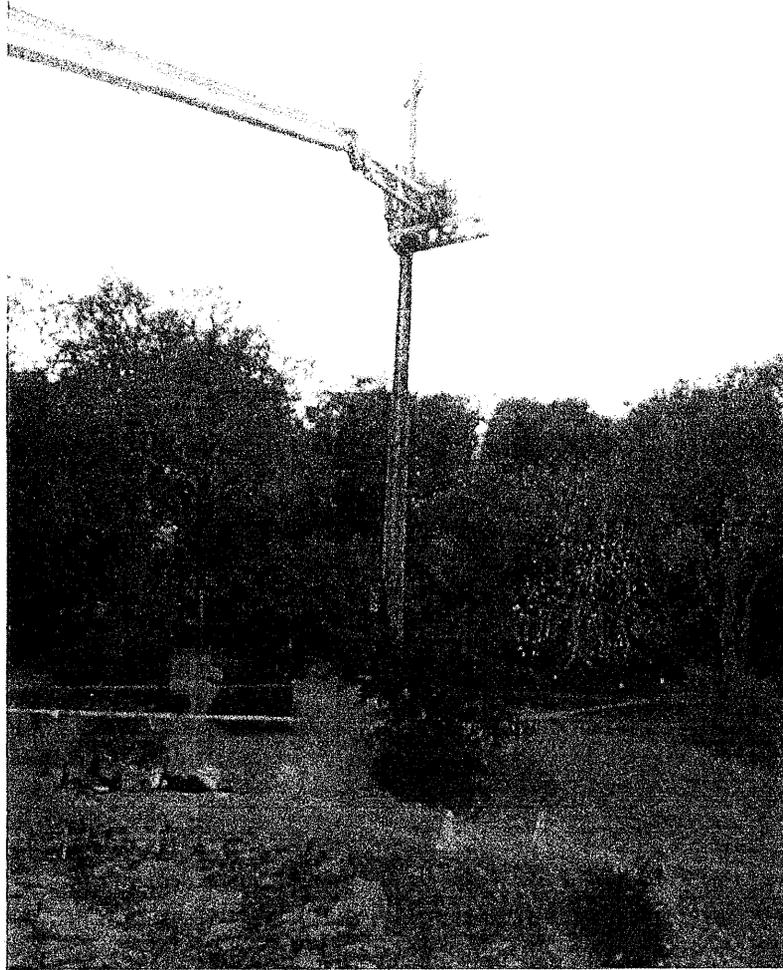
- The new proposal adds a second pair of antennas hanging over the road, and larger equipment on the ground. This is unsightly. For a preview of what this might look like, we suggest you travel down Alpine Rd to the unincorporated section at the entrance to the dish trail and see the double antennas hanging out over the road. (The antennas and the ground equipment there are shown below.) Is this what we want our town to look like? We think Portola Valley can do better than this.



- We shouldn't kid ourselves, unless the town stops this growth and creep, this could replicate on every pole mounted system in town. The evidence so far suggests that each site will creep in size and ugliness.



- Is this the size and beautiful appearance of equipment of a residential installation?
- Aesthetics and way of life are the paramount influence that town government can have. This proposal turns a residential area into an industrial-looking one. When does it stop? The equipment is so big, they originally proposed a 5ft chain link fence to hide it. Even without a fence, equipment of this size is NOT compatible with our way of life. This type of installation belongs behind a commercial building, in a parking lot, but not on one of our main thoroughfares of beautiful Portola Valley.
- Aesthetics more broadly refers to the way of life we chose when we created Portola Valley. Does having work crews blocking Alpine Rd and working through the Thanksgiving weekend describe our values? Are we content with the fact that they disrupted not only Thanksgiving weekend, but again 2 of the 3 following weekends? Are we content with the state of the equipment left during those times? Is it okay in our town to have equipment lying around, to have dangling yellow tape flying in the wind? Is it desirable, even safe, to have numerous cars parked along Alpine Rd every time there is maintenance to be done?



- All of this most recent work was done under an 'emergency' permit. Due to power troubles, I was told. While not an expert on the equipment, I'm not familiar with any power supply issues that require a cherry picker to lift workers up to the antenna. Was it really a power supply issue, or was the situation used to let the size and scope of this site creep and grow again?
- When voicing my concerns, Tom, you, the Town Planner, shared your frustration with AT&T and their communication. This is not an organization compatible with operating in a residential area.

In summary, we request that this proposal be denied. We feel it is a backhanded way to install a larger-scale site, or at least to significantly expand and add an industrial look to the site, without public comment.

This is no longer a blend-in proposal compatible with a residential neighborhood. An installation of this size belongs in a parking lot, or behind a building. It is in

violation of our town aesthetics. This proposal is not consistent with the country residential aspect of Portola Valley life. This is a commercial installation and should be stopped.

AT&T has demonstrated that a site of this size requires major and frequent maintenance. It should not be in the middle of a residential area. It isn't fair to the residents. None of us want consistent traffic blockages, the associated safety concerns with traffic, the consistent noise on our precious, quiet weekends, and the consistent presence of scores of unknown workers at the edge of our residential homesteads.

At the very least, this is NOT a small upgrade. This is a major restart – every piece of equipment is being replaced; the new equipment is larger and uglier. It is already being relocated; antennas are being added; braces are being added that hang the antennas out over Alpine Rd.

A full town review is in order. Alternate locations MUST BE considered.

This permit should be denied.



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Planning Commission

FROM: Karen Kristiansson, Deputy Town Planner

DATE: January 30, 2014

RE: Consideration of Request for Exception to Undergrounding Requirement, 151 Cervantes Road

This application is for waiver of the Town's requirement that overhead utility lines between the house and the nearest pole at the street be placed underground when a structure's electric box is moved. The applicant submitted a letter dated December 23, 2013 and related supporting materials to the Town on January 6, 2014 (attached).

The information provided by the applicant indicates that approximately 168 feet of the utility lines would need to be placed underground, and the work would disturb some trees, a driveway and a retaining wall. The applicant has also estimated that the undergrounding effort would cost approximately \$66,765, which is well over the cost of the original project.

Town Policy, Ordinance Requirements and Previous Waivers

In 1974, the Town established a policy that required that homeowners underground overhead utilities whenever the location of a service box was moved, the location of the overhead wires to the street changed, or service was to be increased over 100 amperes (see Section B.3 of the attached policy statement). The policy statement included the sentence that "These guidelines are intended to impose the burden of undergrounding on a homeowner only when he is making a change that is of sufficient magnitude that the additional expense of undergrounding is reasonable."

In 1990, the Town Council adopted Ordinance 1990-256 (attached), apparently in response to concern over new overhead cable TV lines in the community. The ordinance was intended to provide consistent guidance for undergrounding overhead lines. From a review of the Town Council and Planning Commission minutes and action agendas of the time, the undergrounding requirement was intended primarily to address aesthetic concerns.

The 1990 ordinance added Section 17.48.010 to the subdivision code and 18.36.010.B to the zoning code. Section 17.48.010 includes language allowing the Town Council to

waive undergrounding requirements for a subdivision, and Section 18.36.010.B.9 allows the Planning Commission to waive undergrounding requirements for individual properties

“in those cases wherein the planning commission determines that underground installation is not feasible or practicable and that there is no reasonable alternative location or design for the installation of underground electric or communication lines or appurtenances thereto. The planning commission may establish policies for the administration of this paragraph.”

Although the historical documents may not be complete, the record indicates that the Planning Commission considered at least five waiver requests during the 1990s and granted four of those; these requests are briefly described below:

1. Relief was granted for a property on Hillbrook Drive because the applicant was only moving the service box location.
2. A property on Solana Road was required to underground to the nearest pole, but the ordinance was found not to require undergrounding to the distribution pole.
3. A property on Leroy Way was granted relief due to the high cost relative to the project cost and the need for extensive site work needed, including impacts on an existing retaining wall.
4. A property on Russell Avenue was granted relief due to the cost burden and lack of aesthetic impacts.
5. On Wyndham Drive, a property was granted relief for a project to install an air conditioning unit and upgrade the electrical system for safety reasons, because of the cost of the undergrounding compared to the cost of the project.

Staff did not find any record of Commission consideration of waiver requests after 1999. However, it appears that during the last 10-15 years, staff occasionally granted waivers based on the policy direction set by the 1974 policy, the 1990 ordinance, and the Planning Commission's earlier decisions. At the same time, staff was working to develop a policy to bring forward to the Planning Commission to establish guidelines for waiving undergrounding requirements. However, that policy was never fully developed or brought to the Commission.

Currently, the ordinance designates the Planning Commission as the body authorized to grant waivers to undergrounding requests. As a result, staff intends to refer this and future requests to the Planning Commission for consideration.

Request for Waiver at 151 Cervantes

The attached vicinity map shows the location of this 3.5 acre parcel at 151 Cervantes Road. On July 18, 2013, staff approved a building permit for an interior kitchen remodel and enclosure of a carport at 151 Cervantes Road. The existing electric box is located within the carport near the front of the house and needs to be moved to the front of the house outside the newly-enclosed garage for emergency access. As was discussed above, the Town requires that whenever a service box is moved, the overhead utility lines must be undergrounded to the nearest utility pole.

The following comments are offered to assist the Planning Commission in considering this waiver request:

1. **Aesthetics of the overhead utility lines.** Because of the size of the parcel and area conditions, the existing overhead utility lines to the house are not visible from neighboring homes. From Cervantes Road, views of the overhead lines to the house are screened by the oak and fir trees at the front of the property and running along the driveway, so that they do not currently have a significant visual impact. In addition, the property owner has expressed concern that undergrounding could disturb the roots and affect the health of the trees between the house and the street.
2. **Cost burden of undergrounding.** The applicant has provided a preliminary cost estimate along with his December 23, 2013 letter indicating that the undergrounding would cost approximately \$66,765. In 2005, the Town's Planning Manager received information from PG&E that the cost to a homeowner to underground at that time was approximately \$416 per linear foot. Using that estimate, the cost to underground 168 feet would be \$69,888. As a result, it appears that the applicant's cost estimate is reasonable or perhaps low.

In this case, the service panel needs to be moved in order to complete a project to remodel a kitchen and enclose a carport. The applicant estimates the cost of that project as \$35,730, which is significantly less than the cost to underground. The Deputy Building Official has reviewed the cost estimates for both the project and the undergrounding, and he concurs that the estimates are reasonable.

Because the cost to underground is substantially more than the cost of the related construction project, and because the visual improvement from undergrounding the overhead lines would be minimal, staff recommends granting a waiver for this project. At the same time, the Planning Commission may want to consider directing staff to add the development of a policy for granting undergrounding waivers to the planning program for the next fiscal year. This policy could include guidance for situations when staff could grant waivers, thereby removing the burden for Planning Commission review for applications that meet specified criteria.

Attachments: Applicant letter and supporting materials, dated December 23, 2013
1974 Undergrounding Policy
Ordinance 1990-256
Vicinity Map

cc. Town Manager
Town Planner

TOWN of PORTOLA VALLEY

Town Hall and Offices: 4141 Alpine Road, Portola Valley, Calif. 94025 Tel. (Area Code 415) 851-1700

COUNCIL:

MAYOR B. BOUSHEY
Major
JAMES W. WHITSON
Vice-Mayor
ROBERT V. BROWN
JOHN A. WILSON
ROBERT H. ANDERSON

TOWN OFFICERS:

Clerk
MILDRED WHITAKE
Attorney
JAMES T. MORTON

UNDERGROUNDING REQUIREMENTS FOR THE TOWN OF PORTOLA VALLEY

A. Procedures

1. All requests for installation, replacement or upgrading of overhead utility facilities will be forwarded to the chairman of the Undergrounding Committee. If he determines that the request clearly complies with the requirements or that it clearly fails to comply, he will approve or reject the request accordingly.
2. If the chairman determines that the request is equivocal, he will schedule it for discussion at the next committee meeting. The committee will take action on the request by majority vote of those members attending.
3. If any party disapproves the action of the chairman under paragraph 1 above, he may appeal the decision to the committee for consideration under paragraph 2 above. If any party disapproves the action of the committee under paragraph 2 above, he must appeal the decision to the Town Council. When action has been taken on a request under paragraphs 1 or 2 above, the requests will be immediately returned or forwarded for further action unless the chairman has been informed that a party intends to appeal the decision.

B. Evaluation Guidelines

When evaluating requests, the committee shall consider the following guidelines in order to uniformly administer the undergrounding requirements in accordance with the desires of the Town Council.

1. For all new construction, utility service shall be underground from existing facilities.
2. When existing overhead facilities must be replaced or upgraded due to either age and deterioration, general increase in consumption by existing customers, or increased requirements due to new construction, the decision on a request for an exception to the undergrounding requirements will be based on an evaluation of the benefits to be derived by requiring the undergrounding (advancement of Town policy toward eventually undergrounding the entire town, esthetic benefits, etc.) against the burdens to be imposed (total cost of undergrounding, imposition of burden on one individual when the situation indicates a group should share the burden, etc.). At no time will additional poles be permitted. We have found that the utility companies are usually very cooperative in reviewing particular

requests so that we have been able to reach solutions to specific which may allow some new overhead facilities but result in a net reduction in the esthetic impact of the overhead utilities in that area. These solutions occasionally require substantial redesign of the proposed installation.

3. The following guidelines apply when a homeowner remodels his house or changes his service requirements ~~and are intentionally simple and objective~~ so as to minimize the need to make subjective evaluations in determining if undergrounding is required and to clearly inform the homeowner when he may be taking an action which will make it mandatory that he underground. These guidelines are intended to impose the burden of undergrounding on a homeowner only when he is making a change that is of sufficient magnitude that the additional expense of undergrounding is reasonable. In the following situations a homeowner shall be required to underground all of his overhead utility service to the nearest utility-owned facility.

- a. whenever the location of the service box is moved,
- b. whenever the route of the overhead wires from the pole in the street to the house is changed, or the point where the wires attach to the house is changed; or,
- c. whenever a service is to be increased above 100 amperes.

These guidelines permit a homeowner to increase the size of his service up to 100 amperes without having to underground, and it will permit him to voluntarily underground part of his electrical and telephone service (if he has poles on his property) without having to underground the rest.

4. Other situations will arise which will require individual consideration. At this time some classes of problems have not been analyzed, such as uniform treatment of situations involving geological hazards.

The guidelines given above deal primarily with electrical rather than telephone service because the problems which have been occurring, with one notable exception, have all involved electrical service.

ORDINANCE NO. 1990-256

AN ORDINANCE AMENDING AND ADDING CERTAIN SECTIONS AND
SUBSECTIONS OF AND TO TITLE 17, "SUBDIVISIONS" AND TITLE 18,
"ZONING", OF THE PORTOLA VALLEY MUNICIPAL CODE

(UNDERGROUNDING OF UTILITIES)

The Council of the Town of Portola Valley does ordain, as follows:

Section 1. Amendment of Section 17.48.010 of the Code.

Section 17.48.010 of Title 17, "Subdivisions" of the Portola Valley Municipal Code (herein the "Code") is amended to read as set forth in Exhibit "A" hereto attached and by reference incorporated herein.

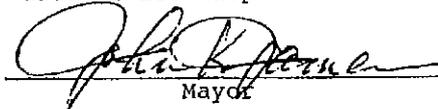
Section 2. Additions to Title 18 and Amendment of Subsection B of Section 18.36.010 of the Code.

Sections 18.04.125, 18.04.425 and 18.04.525 are hereby added and Subsection B of Section 18.36.010 is hereby amended, all of Title 18, "Zoning" of the Code to read as set forth in Exhibit "B" hereto attached and by reference incorporated herein.

Section 3. Repeal of Inconsistent Regulations. All ordinances, code sections and regulations of the Town of Portola Valley inconsistent herewith are hereby repealed.

Section 4. Posting. The Town Clerk shall cause this ordinance to be posted within fifteen (15) days after its passage in at least three public places within said Town.

Section 5. Effective Date. This ordinance shall become effective thirty (30) days from the date of its adoption.



Mayor

ATTEST:



Town Clerk

(SEAL)

* * * * *

I, the undersigned, do hereby certify that the foregoing is a full, true and correct copy of Ordinance No. 1990-256 of the Town of Portola Valley, entitled as shown thereon, that it was INTRODUCED on the 12th day of September, 1990, and PASSED and ADOPTED as an ordinance of the Town of Portola Valley by the Council of said Town on the 26th day of September, 1990, by the following vote:

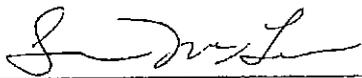
AYES, and in favor thereof, Councilmen: Anderson, Brown,
Crane, James and
Silver

NOES, Councilmen: None

ABSENT, Councilmen: None

That it was posted in three public places in the Town of Portola Valley on October 10, 1990.

Dated: October 10, 1990.



Town Clerk

AMENDMENT TO TITLE 17 OF THE CODE

(SUBDIVISIONS)

Amendment of Section 17.48.010 of the Code.

"17.48.010 Utility Easements - Underground installation. Where required for public utility purposes, utility easements not less than ten feet in width shall be provided within the subdivision. All communications and electric transmission and distribution facilities and appertenances thereto, including any that may already exist within the boundaries of the subdivision or within a street right-of-way on which a subdivision abuts shall be installed underground, however, pad-mounted transformers may be permitted if the planning commission finds there is no adverse visual effect from the public right-of-way, from a neighboring property or from within the property itself. The council may waive the undergrounding requirements of this section when the council determines that underground installation is not feasible or practicable; in which case, the council may authorize the use of overhead communication or electric lines in locations most closely in accordance with the objectives of the Portola Valley general plan. The subdivider shall be responsible for complying with the requirements of this section and shall make the necessary arrangements with the utility companies involved for installation of the facilities."

Exhibit "A"

ADDITIONS AND AMENDMENT TO TITLE 18 OF THE CODE

(ZONING)

(Amendment of Subsection B of Section 18.36.010 of the Code)

"B. . When used for public utility purposes, water or gas pipes, mains or conduits, electric distribution lines, communication lines, sewers or sewer mains and minor incidental appurtenances to any of the above. All electric transmission and/or distribution lines and all communication lines and all appurtenances thereto shall conform to the following:

1. All new transmission, distribution and service lines for electricity and communication shall be installed underground.
2. Existing overhead lines and appurtenances thereto may be replaced unless provided for otherwise in subsections 5. and 6. below, as long as the lines are not enhanced. That is, the lines shall not have additional capacity to serve either the immediate vicinity or more distant areas.
3. All new equipment appurtenant to transmission, distribution and service lines for electricity and communication shall be installed underground; however, pad-mounted transformers may be permitted if the planning commission finds there is no adverse visual effect from the public right-of-way, from a neighboring property or from within the property itself.
4. When any program for improvement of streets is instituted by the town or by any other person having jurisdiction over any street improvements and such improvements require replacement, relocation, construction, reconstruction or alteration of lines, appurtenances thereto or parts thereof, such changes to the electric and communication lines and facilities shall conform to the provisions of this title for new lines and appurtenant equipment.
5. Existing overhead electric service lines which provide service to an individual property may remain until such time as any of the following occur, at which time the lines shall be placed underground: the location of the service box is moved; the route of the overhead wires from the pole to the structure is changed; or the point where the wires attach to the structure is changed; or whenever a service is increased above a total of 100 amperes.
6. Existing overhead communication service lines shall be placed underground whenever this title requires that existing overhead electric service lines be placed underground.
7. The undergrounding provisions for cable television transmission, distribution and service lines shall be established in the franchise ordinance adopted by the town.
8. Undergrounding of existing lines and related facilities on an applicant's property and within adjacent street rights-of-way, utility easements or other public property may be required in connection with zoning amendments, conditional use permits and variances.

Exhibit "B"

9. The provisions of paragraphs B(1), (3), (4), (5), (6) and (8) hereof shall not apply in those cases wherein the planning commission determines that underground installation is not feasible or practicable and that there is no reasonable alternative location or design for the installation of underground electric or communication lines or appurtenances thereto. The planning commission may establish policies for the administration of this paragraph. Any person aggrieved by the decision of the planning commission may appeal from the decision to the town council."

(Add Sections 18.04.125, 18.04.425 and 18.04.525 to Title 18 of the Code)

"18.04.125 Distribution Lines.

Distribution lines are those lines which have electric or communication capacity only sufficient to serve a local area and there is no excess capacity. These lines are usually owned by a utility and located in street rights-of-way, public utility easements or other public property."

"18.04.425 Service Lines.

Service lines are those lines which provide electric and communication service from a distribution line to an individual property."

"18.04.525 Transmission Lines.

Transmission lines are those lines which have electric or communication capacity in excess of that needed to serve an immediate area. These lines are usually owned by a utility and located in street rights-of-way, public utility easements or other public property."

December 23, 2013

Planning Commission
Town of Portola Valley
765 Portola Road,
Portola Valley, CA 94028

RE: Request for Waiver of the Underground Electrical Requirement at 151 Cervantes Rd.

Dear Planning Commission,

I would like to request that you consider my request for an exemption from the requirement to underground the electrical line to a house whenever a panel is relocated. Both Planning and Building staff have been very helpful in trying to resolve my issue. It appears as though the new Zoning Ordinance no longer allows for an administrative exemption, and staff's hands are tied without your approval. Work in this area has been delayed since December while this issue is being sorted out.

Let me explain the particulars of my situation. I applied for and received a permit for a kitchen remodel and enclosure of an existing carport into a garage. I commenced work on the project.

During a routine inspection, Deputy Building Official Gary Fitzer noticed the electrical main service was inside the carport and would need to be turned 90 degrees (and raised slightly) so it would be accessible for emergency responders in case of a fire. Per the Town's ordinance, the rotation of the electrical panel seems to require that the entire service line be undergrounded. Undergrounding this line would entail much difficulty and expense. I have attached a copy of a Site Map that shows this location for your review.

This electrical line is very long- in excess of 168 feet- as my house is set back considerably from the street. Undergrounding the line will require a trench in excess of 200 feet due to the various physical impediments to running the line.

The area is laden with mature trees which would likely suffer root damage due to the underground work. There is also a retaining wall that runs along the driveway, a section of that wall would have to be saw cut out causing structural damage to the wall. The wall is

composed of an adobe brick from 1947 and the brick is no longer commercially available. Repair would therefore be difficult and would require resurfacing the entire wall.

The underground line would also lead to saw cutting out the driveway paving and patching, which would add further expense and difficulty in matching existing surfaces. Terrain also changes height at the retaining wall, leading to a deep trench that would require a tractor to dig. I have been informed that using heavy equipment will likely lead to further damage to the paving and perhaps the tree roots as well.

I have received estimates for the underground work and have included the costs in the attached Cost Estimate. The costs are substantial, in excess of \$66,000 and significantly more than the costs of the carport and kitchen remodel permit that triggered this requirement. The actual costs are expected to be even greater than the provided estimate, as I was unable to reliably estimate the cost of matching the retaining wall, potential tree damage or tractor damage to the paving.

Perhaps even more importantly, I do not require the size of my electrical service be increased, nor am I relocating the panel it for my own needs. The panel location will hardly be moved at all, merely turned to face the street so it can be accessed by emergency responders. As a Planning Commissioner for Santa Clara County I understand the ramifications of creating an exemption and I am loath to request one. However, this minor relocation strictly to bring the panel into code compliance seems like just the situation where relief might be justified.

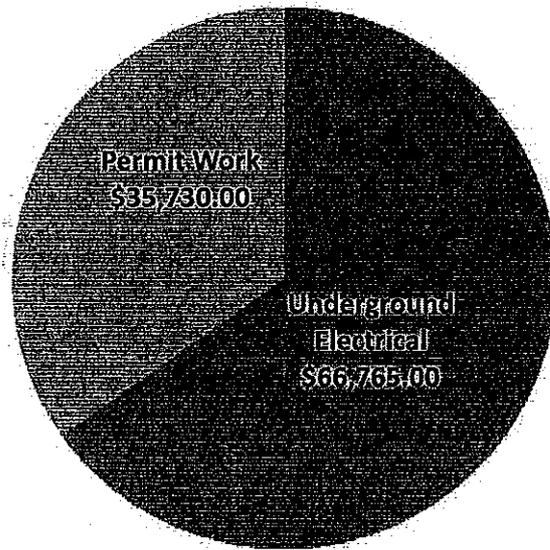
I respectfully request that you consider my application for relief from the undergrounding electrical requirement.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Forrest Linebarger', written in a cursive style.

Forrest Linebarger
151 Cervantes

Cost Estimate



Preliminary Estimate of Underground Electrical Work

\$16,000.00	? PG&E
\$14,850.00	Electrical
\$18,500.00	Trenching
\$2,300.00	Arborist
\$8,740.00	Cut and patch the driveway
\$2,375.00	Retaining wall saw cut
<u>\$4,000.00</u>	? Retaining wall patch
\$66,765.00	

Notes:

"?" Denotes rough estimate, not provided by vendor

Above costs do not include expected damage from tractor work, landscaping repair, or matching the retaining wall patch with the rest of the wall.

Estimate of Permit Work

\$28,280.00	Kitchen remodel
<u>\$7,450.00</u>	Carport Conversion
\$35,730.00	

CERVANTES ROAD



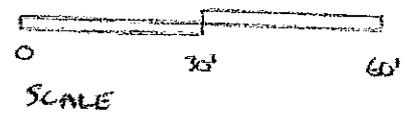
UTIL
POLE

(E) TREES

(E) DRIVEWAY

168' LONG
OVERHEAD
LINE

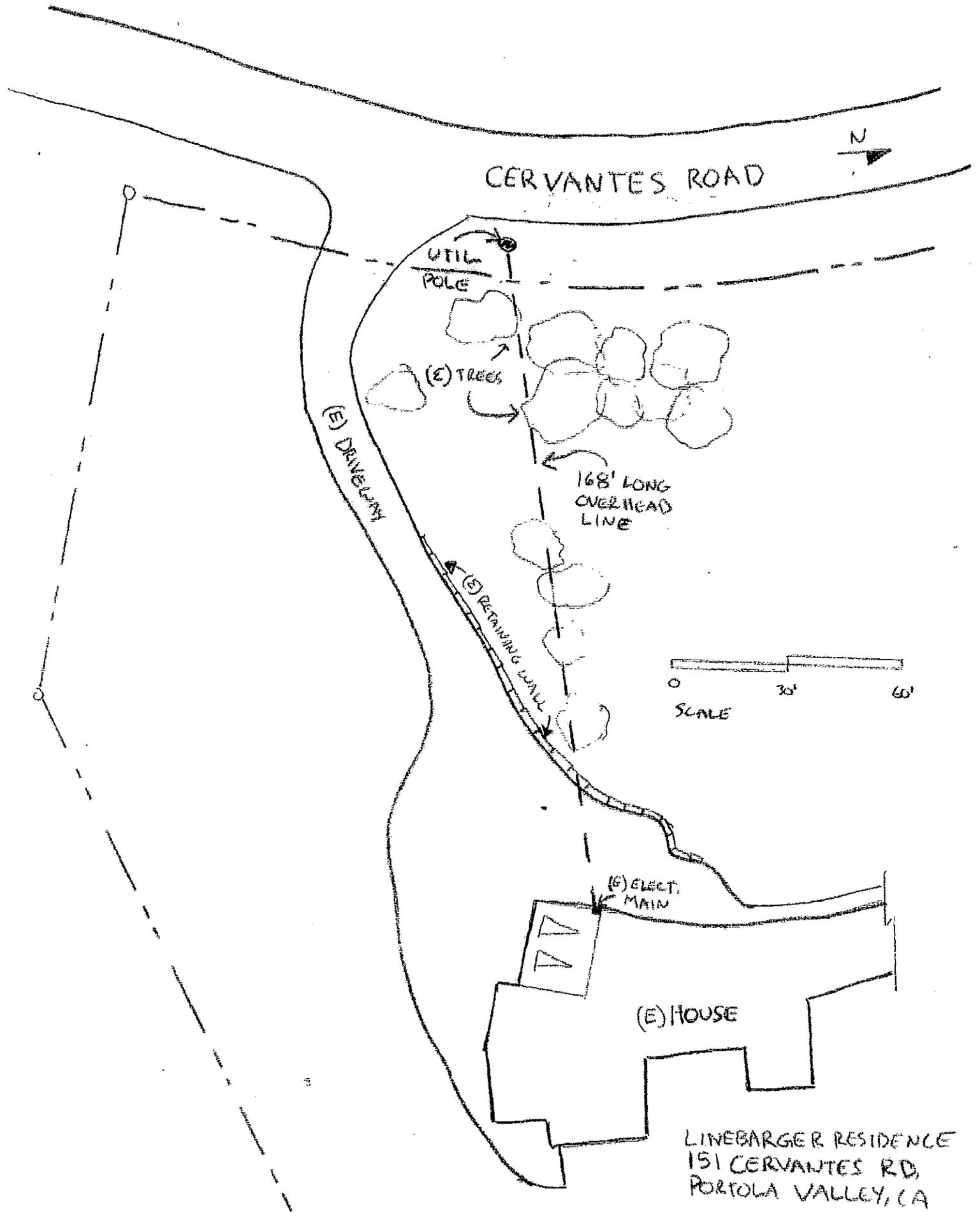
(E) RETAINING WALL



(E) ELECT.
MAIN

(E) HOUSE

LINEBARGER RESIDENCE
151 CERVANTES RD,
PORTOLA VALLEY, CA





MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Planning Commission

FROM: Karen Kristiansson, Deputy Town Planner

DATE: January 30, 2014

RE: Portola Road Corridor Plan

On January 22, 2014, the Planning Commission and Town Council held a joint study session on the draft Portola Road Corridor Plan. The action agenda for that meeting is attached; minutes are not yet available. At that session, the Town Council had the opportunity to provide general feedback and to address four issues that the Planning Commission had flagged for discussion with the Council.

A revised version of the Corridor Plan, dated January 30, 2014, is attached and responds to the discussions and direction provided at the January 22 study session. All changes are shown using ~~strikeout~~ and underline.

After the Planning Commission has considered the revised version of the Plan and any comments offered at the meeting, the Commission should provide direction to staff as to whether additional changes are needed to the Plan or whether staff should begin work preparing the documents for the formal public hearing process.

Responses to the Discussion at the January 22, 2014 Study Session

Section 6404, Objective 1: “natural views”

Based on the discussion at the study session, this section has been revised by removing the word “natural.”

Section 6406, Standard 4: thinning vegetation and opening views

Council members agreed that while opening views from the corridor should be a slightly higher priority, this need should be balanced with the need to preserve vegetation for trail users. In addition, there was agreement that the language in the Plan should be simplified. The revised plan shows suggested wording for this standard that responds to these comments.

Section 6406, Standard 6: undergrounding utility lines

There was consensus among the Council members that undergrounding utilities would be desirable if it became feasible and therefore undergrounding should be mentioned in the Corridor Plan. In addition, the Town Council agreed that the statement about undergrounding in the Corridor Plan should be more general. The revised Plan contains two options for addressing these comments for the Planning Commission's consideration.

Section 6413: open and undeveloped view from the corridor

Town Council members did not agree on whether "undeveloped" land includes land that is used for agriculture, such as vineyards. However, all agreed that the use of this term is more acceptable because the sentence refers to a view that is "**largely** open and undeveloped." In addition, Town Council members agreed that adding the phrase "consistent with the other provisions of this general plan" would clarify what was meant by "preserve and protect" and also reflect the fact that the Corridor Plan is not meant to regulate land uses on private land but would work together with the land use element and other elements of the general plan. This addition is shown in the revised Plan.

Next Steps

At the conclusion of the discussion on February 5, and after consideration of this report and comments offered at the meeting, the Commission should provide direction to staff relative to any additional changes that should be made to the Plan. Once the Commission is satisfied that the Corridor Plan is complete and ready for action, staff will begin work to put the plan in form for public hearing. This will include determining changes that should be made to other elements of the General Plan when the Corridor Plan is adopted, both to eliminate redundancy and to ensure consistency within the General Plan. The appropriate CEQA documents will also need to be prepared.

Attachments: Action Agenda from the January 22, 2014 Study Session
Revised Draft Portola Road Corridor Plan, dated January 30, 2014

cc. Town Planner
Town Manager
Mayor
Portola Road Taskforce Members



6:30 PM – Special Joint Town Council / Planning
Commission Study Session and
7:30 PM – Special Town Council Meeting
Wednesday, January 22, 2014
The Sequoias / Hanson Hall
501 Portola Road, Portola Valley, CA 94028

ACTION AGENDA

6:30 PM – CALL TO ORDER AND ROLL CALL

Councilmember Derwin, Councilmember Hughes, Councilmember Richards, Vice Mayor Aalfs and Mayor Wengert
Commissioners Hasko, McKitterick, Targ, Chairperson Von Feldt, and Vice-Chairperson Gilbert

All Present – Commissioner Targ arrived at 6:35

ORAL COMMUNICATIONS

Persons wishing to address the Town Council on any subject may do so now. Please note however, that the Council is not able to undertake extended discussion or action tonight on items not on the agenda.

STUDY SESSION – TOWN COUNCIL / PLANNING COMMISSION - 6:30 PM

(1) **Joint Study Session – Draft Portola Road Corridor Plan**

Council gave overall direction that language in the General Plan should be general and should be as simple as possible, realizing that interpretation will always be needed.

Four issues were presented to Council for discussion –

1) Section 6404, Objective 1: “*natural views*” – Council concurrence to amend as follows: “protect or reestablish open views within and from the corridor.”

2) Section 6406, standard 4: *thinning vegetation and opening views* – Council concurred that opening views is a slightly higher priority but decisions should be on a case by case basis and should balance the trails user experience with the motorist experience.

3) Section 6406, Standard 6: *undergrounding utility lines* – Council discussed the expense to underground but agreed to continue to encourage undergrounding when feasible.

4) 6413, *open and undeveloped view from the corridor* – Council members wrestled with the wording “open and undeveloped view from the corridor” and also expressed concern about what was meant by “preserve and protect.” Town Planner Vlasic reminded them that this wording did not control land use beyond the corridor as that was addressed by other general plan provisions, particularly the land use and open space elements, and that the corridor plan was really just focusing on lands in and immediately along the corridor. Council concurred with Town Planner Vlasic’s recommended wording “Efforts should be made to work with the land owners to preserve and protect these lands, consistent with the other provisions of this general plan, so that the view from the corridor remains largely open and undeveloped.”

SPECIAL MEETING AGENDA – TOWN COUNCIL - 7:30 PM

(2) **ASCC COMMISSIONER INTERVIEW AND APPOINTMENT**

- (a) Brian Cairney
- (b) Mike Mokolke (withdrew application)

(3) **Appointment of ASCC Commissioner**

Council appointed Iris Harrell to the ASCC 4-0, Mayor Wengert recused herself

CONSENT AGENDA

The following items listed on the Consent Agenda are considered routine and approved by one roll call motion. The Mayor or any member of the Town Council or of the public may request that any item listed under the Consent Agenda be removed and action taken separately.

(4) **Approval of Minutes** – Regular Town Council Meeting of January 8, 2014

Approved as Amended 5-0

- (5) **Approval of Warrant List** – January 22, 2014
- (6) **Appointment by Mayor** – 2014 Commissions and Committees

Items 5 & 6 Approved 5-0

REGULAR AGENDA

- (7) **Recommendation by Public Works Director** – Adoption of Resolution to Submit Applications for San Mateo County Transportation Authority Grant Funding in 2014-15 and 2015-16 under the Measure A Pedestrian and Bicycle Program and Authorize the Town Manager to execute the Funding Agreement and Non-Supplantation of Funds
 - (a) Adoption of A Resolution of the Town Council of the Town of Portola Valley Supporting the Projects and Submitting an Application for Measure A Pedestrian and Bicycle Program Funding for the Projects (Resolution No. 2611-2014)

Council Approved Adoption of the Resolution and Authorizing the Town Manager to execute the Funding Agreement and Non-Supplantation of Funds

- (8) **Recommendation by Administrative Services Manager** – Review and Accept the Independently Audited Town of Portola Valley Basic Financial Statements for the Year Ended June 30, 2013 and Receive Required Communications from the Independent Audit Firm Maze & Associates for the Year Ended June 30, 2013

Council Accepted the Audit and Financial Statements for FYE 06/2013

- (9) **Recommendation by Town Manager** – Consideration of Establishing Fund Balance Assignments for the General Fund

Council Approved designation of proposed Fund Balance Assignments

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

- (10) **Appointment by Mayor** – 2014 Commission and Committee Council Liaisons

Liaison Assignments Approved 5-0

- (11) **Recommendation by Mayor** – Letter to the San Francisco International Airport Community Roundtable Urging the Roundtable to Advocate for Greater Public Participation in the Federal Aviation Administration's *NextGEN Initiative*
There are no written materials for this item.

Council authorized the Mayor and Councilmember Derwin will draft a letter following the Airport Roundtable meeting, scheduled for January 29.

- (12) **Reports from Commission and Committee Liaisons**
There are no written materials for this item.

Councilmember Derwin – Both C/CAG and Resource Management Climate Protection Committee cancelled their January meeting. The public is invited to attend a reception for the first Poet Laureate of San Mateo County, Caroline Goodwin. HEART Board nominated Don Horsley as new Vice Chair. HEART'S annual luncheon will be held on May 7th at the South San Francisco Conference Center. HEART is considering hiring a new consultant to do its feasibility study to raise \$200 million to build affordable housing in San Mateo County, which equates to approximately 4,000 units.

Vice Mayor Aalfs – Planning Commission discussed part of the housing element, inclusionary housing language and whether to adopt a density bonus. The Commission appointed Denise Gilbert as Chair and Nicholas Targ as Vice Chair.

Mayor Wengert – Trails & Paths Committee discussed driveway scoring, 50th Anniversary happenings and held interviews for two applicants. Teen Committee may soon lose several of its members and will need to recruit. 50th Anniversary Committee held its first meeting on January 17th, raising the 50th Anniversary flag and continues to work on a calendar of proposed activities.

Councilmember Richards – Emergency Services Council JPA discussed finances and two upcoming exercises; 'Alaska Earthquake Exercise' scheduled for March 27, which is a tsunami exercise and the 'Silver Dragon',

(pandemic exercise) sponsored by the health department, scheduled for April 17. The Emergency Services Council is working to launch a new website that will include a rain gauge project where you can see real time flow of creeks.

Councilmember Hughes – ASCC discussed the cell site across from Alpine Hills, Lauriston property restoration, and held discussion on wood roofs. Cable & Utilities Undergrounding January meeting did not have a quorum.

WRITTEN COMMUNICATIONS

(13) **Town Council Weekly Digest** – January 10, 2014

Item #6 – Councilmember Derwin asked if there was additional information available on the Escobar burglaries.

(14) **Town Council Weekly Digest** – January 17, 2014

None

ADJOURNMENT: 9:15 pm

ASSISTANCE FOR PEOPLE WITH DISABILITIES

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

AVAILABILITY OF INFORMATION

Copies of all agenda reports and supporting data are available for viewing and inspection at Town Hall and at the Portola Valley Library located adjacent to Town Hall. In accordance with SB343, Town Council agenda materials, released less than 72 hours prior to the meeting, are available to the public at Town Hall, 765 Portola Road, Portola Valley, CA 94028.

SUBMITTAL OF AGENDA ITEMS

The deadline for submittal of agenda items is 12:00 Noon WEDNESDAY of the week prior to the meeting. By law no action can be taken on matters not listed on the printed agenda unless the Town Council determines that emergency action is required. Non-emergency matters brought up by the public under Communications may be referred to the administrative staff for appropriate action.

PUBLIC HEARINGS

Public Hearings provide the general public and interested parties an opportunity to provide testimony on these items. If you challenge any proposed action(s) in court, you may be limited to raising only issues you or someone else raised at the Public Hearing(s) described in this agenda, or in written correspondence delivered to the Town Council at, or prior to, the Public Hearing(s).

Town of Portola Valley General Plan

D R A F T

Portola Road Corridor Plan

January 30, 2014

Table of Contents

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Portola Road Corridor Plan

Introduction

- 6400 The Portola Road scenic corridor comprises Portola Road, the trail that parallels the road, and the lands immediately on either side of the road and trail. Running along the floor of the Portola Valley, this corridor is part of the area that helps define the visual character and quality of the community and is considered the “heart of the town.” The corridor links many of the town’s most important destinations including commercial, institutional, recreational and natural resources. Both town residents and visitors alike make frequent use of the corridor and benefit from its scenic qualities. In addition, the corridor both divides and connects the steeper open spaces of the western hillsides and the more residentially developed eastern portions of the town.
- 6401 Immediate views and distant vistas within and from the roadway corridor define its character and underscore the open space and more rural values of Portola Valley as a whole. Therefore, management and treatment of both public and private lands along the corridor and the more critical viewsheds from the corridor should reflect the basic town values as set forth in this general plan. Landscaping, buildings and other land uses within and along the corridor need to be sited and designed to conserve the open and rural character. New development should be subservient to the setting, taking into account distant views to the largely undeveloped western hillsides and closer in views to orchards and fields, and also the native landscaping within the public right of way and on the frontages of privately held parcels.
- 6402 In addition to its scenic setting, the corridor plays a critical role as a transportation and recreation resource. Portola Road is one of the main arterial roads in town for motor vehicles, and the corridor is a key location for alternate forms of

transportation and recreation, such as walking and biking. The corridor serves to connect or provide access to many horse trails.

6403 The Portola Road Corridor Plan provides a comprehensive land use perspective for the entire corridor, sets forth the main objectives for it, and identifies principles and standards for guiding public and private actions to achieve plan objectives.

Objectives

- 6404
1. To protect or reestablish open and natural views within and from the corridor, especially to the western hillsides, wherever possible while preserving valuable habitat and variety of experience for all users.
 2. To encourage more pedestrian, bicycle and equestrian use along the corridor, improve the experience for these users, and reduce local motor vehicle trips.
 3. To keep the corridor free of exotic invasive plants and promote rehabilitation of native ecosystems.
 4. To preserve, enhance and reinforce the identity of the town by providing for a unified design of the valley, with two clusters of commercial and civic facilities near the ends of the corridor as focal points that are linked by trails, open space and planting epitomizing the natural quality of the town
 5. To serve as a scenic corridor through the town that reflects the open space values of the town. Much of the area between the two more intense land use clusters is traversed by or near the San Andreas Fault and should therefore be kept in open space or low intensity uses.

Principles

6405 The following principles should be followed to achieve the objectives described above:

1. The town should actively pursue acquisition of properties or other property rights, such as conservation easements, to preserve and enhance the most sensitive views of the western hillsides and achieve the other objectives of this element.
2. Vegetation along the road, both within the right-of-way and on private property, should be managed so as to enhance and preserve views, especially of the western hillsides, existing orchards and open fields.

3. Parking along the shoulder of the road should be discouraged using measures that are as unobtrusive as possible and do not to impede the movement of bicyclists, equestrians, pedestrians and other users or affect the visual character of the roadway corridor.
4. The shoulders along Portola Road should have a consistent width sufficient to provide for multiple users, as long as widening the shoulders would not adversely impact the adjacent trail.
5. Exotic invasive vegetation should be removed along the corridor, and native vegetation should be used for new plantings wherever possible.
6. The trail along Portola Road should be separate from the road and clearly delineated.
7. The trail should be designed to serve multiple types of users, including pedestrians, equestrians, and bicyclists consistent with the Trails and Paths Element of this General Plan.
8. The trail surface should not be paved but should be consistent with town trails standards for a multi-use corridor. Ideally, the trail would have a pervious surface with drainage improvements as needed.
9. Where appropriate, the town should acquire land, easements, or other property rights along or near the road to allow for a better trail configuration and better connections to the rest of the town's trail system.
10. Land abutting the corridor should be zoned and otherwise managed to promote open space and enhance scenic quality. Special consideration should be given to building size, design and setbacks along this road.

Standards

- 6406
1. The multi-use trail along Portola Road shall have an all-weather, non-paved surface suitable for horseback riding, bicycling, pedestrians, and other permitted users.
 2. Where the trail crosses the road, the nature of the crossings should be assessed for safe use by all users, and if necessary, improved.
 3. While meeting town trail standards, the trail shall incorporate some variety in width, elevation and treatment of nearby vegetation. This variety helps to preserve the rural character of the area.

4. The town should thin or remove vegetation in the right-of-way in order to open views, while also preserving enough vegetation to provide an enjoyable environment for trail users. These needs should be balanced on a case by case basis using input from the various committees in town.

~~The town should thin or remove vegetation in the right of way where the vegetation obscures views, and opening those views would enhance enjoyment by various users. While opening and preserving views is the primary goal, appropriate clumps of vegetation of varying heights and size should be preserved, both to provide a varied experience and to preserve valuable habitat along the corridor.~~

5. The town should encourage property owners on the western side of the road to thin or remove vegetation on their properties when the vegetation obscures views of the western hillsides, existing orchards and open fields.

OPTION 1:

6. ~~Undergrounding utility lines along the corridor is desirable and should be considered, although the costs and benefits of undergrounding should be weighed in light of other improvements, such as widening shoulders and improving trails, that are also desired along the corridor.~~
7. The town should require utility companies and property owners to screen utility boxes and related equipment or develop other measures to decrease their aesthetic impacts.

OPTION 2:

6. The town should work to decrease the aesthetic impacts of utilities along the corridor. To that end, the town should require utility companies and property owners to screen utility boxes and related equipment or develop other measures reduce visual impacts. The town should also work with wireless communications companies to minimize visibility of their equipment. In addition, the town should explore the possibility of undergrounding utility lines along the corridor. ~~is desirable and should be considered, although the costs and benefits of undergrounding should be weighed in light of other improvements, such as widening shoulders and improving trails, that are also desired along the corridor.~~
7. ~~The town should require utility companies and property owners to screen utility boxes and related equipment or develop other measures to decrease their aesthetic impacts.~~

8. Portola Road should remain as a two lane road, although turning lanes should be added as necessary.
9. The town should encourage removal of exotic invasive vegetation on both sides of the roadway corridor.

Description

- 6407 The Portola Road Corridor extends approximately two miles from Alpine Road northward past the Priory School and the Sequoias Retirement Community to Portola Valley Town Center and the northern town boundary with the Town of Woodside. Much of the corridor is located east of the San Andreas Fault zone, and a significant segment of the the corridor, primarily from Willowbrook Drive to the Wayside Road, separates the eastern, more developed portion of Portola Valley from the steeper, less stable and less developed western hillsides.
- 6408 The corridor links clusters of community-serving uses at either end with open space, recreational, institutional, agricultural and residential uses in between. The cluster at the northern end includes churches, a commercial area and the town center with community-serving meeting, classroom, recreational and library facilities. The cluster at the southern end includes a commercial area, space for institutional uses and a fire station. The town's two largest institutional uses, the Sequoias and the Priory School, are both located between these two clusters. The visibility of all of these uses from within the corridor should be managed so as to minimize visual intrusion or conflict with the objectives of this element.
- 6409 The road itself is a two-lane arterial road, with a bicycle route designated in the Trails and Paths Element along its length. Together with the lower portion of Alpine Road, Portola Road serves as part of a popular regional bike loop. The trail along the corridor is a critical link in the town's overall trail system for multiple types of users and has many important destinations along its length.
- 6410 The following descriptions are for specific segments for the corridor starting at Alpine Road and extending to the northern limits of Portola Valley.
- 6411 **Segment 1, Alpine Road to Willowbrook Drive and the Sequoias.** Land along this segment is more intensely developed than in the rest of the corridor. There are many developed residential parcels, with more dense development along the west side of the road. This segment also includes the significant Woodside Priory and Sequoias institutional uses and facilities, as well as the commercial and offices uses within the Nathhorst Triangle. The land use pattern in this segment is well established, and efforts to enhance the sense of the town's character along the corridor need to recognize this. As a result, techniques such as encouraging or requiring planting of native materials,

removal of exotic invasive vegetation, and more natural landscaping would be more appropriate in this segment than increased setbacks or other similar land use controls.

- 6412 **Segment 2, Sequoias to the Town Center.** On the east side of the corridor in this segment, the residential land use pattern is well established, with approximately one acre per dwelling unit, and no significant changes are anticipated. Development areas visible from the corridor should continue to be controlled through setback and architectural review to protect the visual character of views from the road. Similar to Segment 1, the main objectives for this area will be to control exotic invasive plant materials and replace these with native landscaping consistent with town landscaping guidelines. Within the public right-of-way, vegetation can be addressed through annual roadway maintenance programs and other programs as consistent with town budgetary priorities and resources. For privately held lands on the east side of the corridor, the town should seek to encourage, and where possible in conjunction with development review proposals, require conversion of highly visible non-native plant materials to native species.
- 6413 The lands on the west side of the corridor in Segment 2 are dominated by larger parcels, several of which extend from the Valley floor to near the top of the western hillsides, including the Windy Hill Open Space Preserve lands of the Midpeninsula Regional Open Space District. These parcels contain some of the most significant viewsheds in the town and also include the areas shown on the general plan diagram as “Meadow Preserve,” “Orchard Preserve” and “Stable Preserve.” Efforts should be made to work with the land owners to preserve and protect these lands consistent with the other provisions of this general plan so that the view from the corridor remains largely open and undeveloped. Where appropriate, the town should acquire land or other property rights, such as conservation or open space easements or designation under the Williamson Act.
- 6414 **Segment 3, Town Center to Wayside Road.** The land use pattern adjacent to this segment is largely set and controlled by provisions set forth in the town center area plan element of this general plan. This area includes the Town Center Preserve and also the larger private land holdings to the north of this Preserve. As with the larger privately held lands on the west side of Segment 2, the town should pursue actions that would protect the visual qualities of the lands critical to the views from the corridor.
- 6415 **Segment 4, Wayside Road to the northern town limits.** On the east side of the corridor north of Wayside Road and the Wyndham Drive subdivision, most land is within the Town of Woodside and occupied by the “Family Farm” private low density use. The town encourages the low intensity uses in this area to continue and for the roadside and lands immediately east of the corridor to be maintained in the existing open and tree covered condition.

6416 Land on the west side of Segment 4 is largely developed in low to medium intensity residential uses, and no significant change in land use or pattern of uses is expected. As for Segment 1, the corridor in this segment should be managed to discourage exotic invasive plantings, enhance native vegetation and, to the extent possible, limit views to houses and other site improvements. It is recognized, however, that like portions of Segment 1, there will be limited option for changes to the established visual character along the corridor in Segment 4.

Portola Road Corridor Plan Appendix 1: Implementation of the Portola Road Corridor Plan

Actions to date:

1. ASCC review is required for all buildings along Portola Road.
2. Conservation Committee review is required for all landscaping within 75' of Portola Road. The town has adopted design guidelines that include lists of native plants that are to guide the Conservation Committee in its actions. The use of native plants in the scenic corridor will help retain the natural beauty of the area.

Future actions:

1. The trail along Portola Road from the Town Center to Nathhorst Triangle should meet the town standards for a multi-use trail, with a minimum 6' wide trail surface of compacted base rock. Land or easements should be acquired as necessary to allow this trail standard to be met.
2. Widen shoulders in key locations along Portola Road to make them consistent in width.
3. The town should thin vegetation in the road right-of-way in locations where vegetation blocks views, and work with private property owners to encourage similar thinning on their lands.



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Planning Commission

FROM: Karen Kristiansson, Deputy Town Planner

DATE: January 30, 2014

RE: Updated RHNA analysis, affiliated housing and potential changes to the affiliated housing program, and follow-up discussion of State Density Bonus Law

The February 5, 2014 housing element study session will include discussion of three topics, as described below:

1. An analysis of the Town's RHNA numbers given the 21 Elements study of the affordability of second units and current second unit production rates.
2. The town's current affiliated housing program, including reports on discussions that staff had late in 2013 with representatives of the Priory School and the Sequoias, and an idea from the Ad Hoc Housing Committee that affiliated housing could be allowed on commercial or large agricultural properties as well as institutional properties.
3. Additional information related to State Density Bonus Law from the Town Attorney to follow up on the discussion on this topic at the last housing element study session. The Town Attorney will be at the February 5 Planning Commission meeting to answer questions as needed.

While the first of these is an informational item, staff recommends that the Planning Commission provide feedback on the affiliated housing program and State Density Bonus Law as described below.

RHNA Analysis

The table below shows the results from the draft affordability study for second units that was completed for the 21 Elements program. This study has not yet been approved by the state and could change.

Draft 2013 Second Units Affordability Study		
Income Category	2013 Affordability Study	
	Type 1*	Type 2**
Extremely Low	60%	50%
Very Low	10%	0%
Low	15%	20%
Moderate	10%	20%
Above Moderate	5%	10%

* The breakdown for Type 1 communities is based largely on recent surveys conducted in Hillsborough and should be used by similar communities.

** The breakdown for Type 2 communities is based primarily on information from craigslist and similar sources, and should be used by all other communities.

Assuming the process proceeds in a way similar to the process for the 2009 housing element update, once the study is approved, the Town will be able to use it to estimate the affordability of second units that are constructed in Town. This means that the Town will not need to do a separate survey or collect and track data on each second unit in Town, but can instead use the affordability study as the basis for its housing element calculations.

The table below shows the number of second units that would be counted towards each income level over the eight year housing element planning period if the Town issued permits for an average of five new second units per year, six new second units per year, or seven new second units per year. To be conservative because the affordability study has not yet been approved, the numbers in the table below use the distribution for Type 2 communities, although Portola Valley is similar to Hillsborough in many ways and could likely use the Type 1 distribution. For comparison, the table also shows the Town's RHNA numbers for each income level.

Estimated Distribution of New Second Units from 2014-2022 Based on the Draft 2013 Second Units Affordability Study				
Income Category	5 New 2 nd Units / Year	6 New 2 nd Units / Year	7 New 2 nd Units / Year	RHNA
Extremely Low	20	24	28	11
Very Low	0	0	0	10
Low	8	9	11	15
Moderate	8	10	11	15
Above Moderate	4	5	6	13
Total	40	48	56	64

The State has previously allowed the Town to count units provided at extremely low and very low income levels towards the need for housing for low income households and is likely to allow the Town to generally count housing units provided at lower income levels toward the need for higher income housing in this housing element.

Based on data from the last three years, an average of 5.6 new second units are authorized by permit in the Town each year. Using the 21 Elements affordability study, it appears that if the Town could increase this average to six new second units per year, the Town would be able to provide all but three low income units and five moderate income units with second units alone.

Affiliated Housing

The term “affiliated housing” was coined in discussions at the Ad Hoc Housing Committee and was defined as “housing that is located on a property which is primarily used for a purpose other than housing, and that provides housing for staff and employees of the entity having the primary use of the property.”

The Town has a program in its 2009 housing element to allow this type of housing on three institutional properties. As a result of its discussion of this program, the Ad Hoc Housing Committee recommended that the Town consider allowing some affiliated housing on commercial or agricultural properties. Both the existing program and the Ad Hoc Housing Committee’s recommendations are discussed below.

The Town’s Existing Affiliated Housing Program

Program 2 of the 2009 housing element (attached) is called “multifamily housing” and allows for multifamily housing to be built on three institutional parcels in town (the Priory School, the Sequoias, and the Stanford Wedge), should the property owners desire to build housing on their sites. The Town can allow and encourage housing on these properties, but as the property owners, the institutions will be the ones to develop any proposals for housing and bring them forward for review and discussion.

As currently described in the housing element, this program allows multifamily housing to be built on these three properties as long as more than half of the units are affordable to moderate, low or very low income households. Total floor area can be no more than the total of what is permitted for market rate housing, but this floor area can be provided in a larger number of smaller dwelling units, not to exceed three times the number of units allowed for market rate units. The development must also meet all general plan, zoning, subdivision and site development standards for residences.

Seven homes were built at the Priory under this program in 2002 and are rented to teachers and staff. The Priory reports to the town annually on the rents and affordability of these homes. The Priory’s approved master plan provides for 11 additional new homes to be built on the campus, and the 2009 housing element indicated that four of these would be for low income households, four would be for moderate income households, and three would be for above-moderate income households. The Priory has indicated that they would like to amend their master plan in the next few years to address some changes they are considering for their gym facilities, some new academic facilities, and housing locations.

At the Sequoias, town staff met with Jay Zimmer, the Executive Director of the Portola Valley campus, in late 2013 to discuss the possibility of providing below market rate employee housing at the Sequoias. This could potentially be done either by building on the small amount of undeveloped land on the Sequoias campus or by renovating some existing buildings to provide employee housing. The idea will need to be considered by their Board and community, as well as by the larger Sequoias organization, and any proposal would need to be reviewed and approved by the Town.

The Stanford Wedge is largely undeveloped, and so far Stanford has shown no sign of selling or building on the land. The Wedge is about 89 acres in size, although much of it

includes steep slopes and unstable soils. As a result, any development on the site would be clustered on the flatter land closer to Alpine Road. Under the town's existing regulations, Stanford could build about 28 market rate units on the site as a cluster development. Based on the provisions of the multifamily housing program as discussed above, this would allow up to 85 units if more than half of the units were affordable. However, even under these provisions, the actual density would likely be less as result of the Town's development standards and to limit traffic and other impacts.

Potential to Expand the Affiliated Housing Program

The Ad Hoc Housing Committee's recommendations relative to the affiliated housing program are attached. These suggest two possibilities for expanding the program. One would be to allow affiliated housing on commercial properties, potentially on a second floor or at the back of the property. The second would be to allow affiliated housing on some larger agricultural properties, if the housing is designed in a way that preserves the open rural character of the land.

The first of these options would allow for small-scale mixed use, where a employee housing could be provided on a commercial property. All commercial properties in town are located in the Nathhorst Triangle Plan area and the Town Center Plan area, including parcels around the Village Square shopping center. The Town could study the possibility of allowing limited employee housing in these areas as a conditional use.

To do this, the Town would need to examine possible traffic and other impacts. In addition, the Town would need to develop appropriate performance standards for employee housing. For example, these could include limiting each commercial property to no more than one housing unit, requiring housing be accessory to a primary commercial use, and establishing standards for parking, restrictions on the possible location of employee housing within a property, maximum floor area for an employee housing unit, architectural design requirements, and so forth. To implement a program like this, the Town would need to amend both its General Plan and its zoning ordinance.

This type of mixed-use could be one way for the Town to allow some additional housing that would be affordable to people who work in the community. In addition, it could help local employers by making it easier for them to attract and retain employees and allowing employers to have an additional source of revenue through the rents. The program may also help to reduce traffic because employees would be able to walk to work rather than driving.

On the other hand, because existing sites are largely built out, additional floor area could be needed to truly allow employee housing in these areas. Neighbors would likely have concerns relative to the housing and increased density, and the program would need to include provisions for management and oversight of the units. Clearly, the Town would need to study a number of issues in order to determine whether a program like this would be appropriate.

The second option suggested by the Ad-Hoc Housing Committee was to allow affiliated housing on larger agricultural properties, if the housing is designed in a way that preserves the open rural character of the land. Agricultural properties are different from commercial properties, however, in that state law already requires the Town to allow farmworker dormitories for qualified agricultural uses as a conditional use. As a result,

the Town already permits this type of affiliated housing, although none has been proposed or authorized.

State Density Bonus Law

State density bonus law was discussed in the staff report for the Planning Commission's January 15 study session, and more detail is provided in the attached report from the Town Attorney. Some key points include:

- The Town must comply with State Density Bonus Law regardless of whether or not the Town has adopted an implementing ordinance.
- Only development projects with five or more units could qualify for a density bonus.
- State Density Bonus Law does not give the Town any leeway regarding the amount of the density bonus or the number of incentives or waivers that must be granted for a project; that is determined by the percentage of affordable units provided and the requirements in the state law.
- Adopting an implementing ordinance would allow the Town to define the procedures and information required for applying for a density bonus. Also, the Town could craft its ordinance to encourage developers to request certain types of incentives.

As was stated in the staff report for the Planning Commission's January 15 study session, state density bonus law would have few, if any, applications in Portola Valley primarily because of the relatively low densities in town. In addition, because a development project needs to have at least five units in order to qualify for a density bonus, a developer would need to either 1) use one of the four remaining large properties in town where five or more units would be allowed under current zoning (El Mirador; Spring Ridge/Neely; Stanford Wedge; and Fogarty), 2) apply for and receive a zoning change so that another parcel could accommodate five or more units, or 3) assemble land to allow a larger development.

The Town Attorney will be present at the February 5 Planning Commission meeting and will be prepared to present more detailed information on the state density bonus law or answer any questions the Planning Commission may have.

Planning Commission Direction

The RHNA analysis provided above was for information only and does not need direction from the Planning Commission.

For the affiliated housing program, the Planning Commission can provide feedback on the idea of allowing limited employee housing on commercial properties in Town. The housing element could potentially include a program to study this option in more detail and determine whether or not to move forward with it.

In terms of the State Density Bonus Law, the Commission should determine whether to recommend that the Town Council consider directing staff to begin work on developing an implementing ordinance. As was discussed at the January 15 study session, the Town would qualify for streamlined review of its housing element if the Town adopted an implementing ordinance for State Density Bonus Law before the draft housing element is submitted to the state. The Town Attorney has indicated that drafting an implementing ordinance would likely only take a few weeks.

Looking Ahead

Because of the volume of work in the Planning Department and the need to focus on tasks related to transitioning the planning function to Town Hall, staff has started discussions with the consultant for the 21 Elements effort about the possibility of arranging for additional assistance with the housing element effort. This could potentially lead to some adjustments to the housing element schedule. Adjustments will be publicized through the PV Forum, the Town's e-notification mailing lists, and the Town's website at a minimum. Another postcard may also be mailed to residents.

If no schedule adjustments are needed, the Commission would next discuss the housing element at its March 5 study session, when the Commission would study the draft site inventory and a draft of the Programs, Quantified Objectives, and Action Plan section of the housing element.

Attachments: Program 2 of the 2009 Housing Element
Ad-Hoc Housing Committee's Recommendations for Affiliated Housing
Town Attorney's Memo on State Density Bonus Law

cc. Mayor
ASCC
Town Manager
Town Planner
Town Attorney

Program 2: Multifamily Housing

2481 As established in the previous housing element, multifamily housing projects are permitted on three sites – The Sequoias, Priory School and the Stanford Wedge – shown on Exhibit 8. This program has the following features:

1. **Planned Unit Developments and Conditional Use Permits.** The town's regulations permit multifamily housing on the Stanford Wedge with a PUD. Multifamily housing on the Priory School site and the Sequoias have and can be permitted through amendments of the CUPs and/or PUDs governing those projects. Development on the Stanford Wedge could be accomplished pursuant to a CUP and a PUD. The PUD or CUP for a multifamily housing project shall control the siting and design of projects, the mix of units by income category of eligible occupants, methods of controlling rents and/or resale prices, provisions for ongoing management of the project and other matters deemed appropriate by the town.
2. **Inclusion of Market Rate Units.** The purpose of this program is primarily to provide affordable (below market rate) housing. The town may permit the inclusion of market rate units in a project if it determines they are necessary to make a project feasible. However, substantially over half of the units in any multifamily affordable housing project must be affordable to moderate, low and very low income households according to guidelines issued annually by the U.S. Department of Housing and Urban Development (HUD). With the approval of the Planning Commission and Town Council, an exception to this requirement may be made for housing that is ancillary to the primary use of the site.
3. **Floor Area and Density.** The floor area in multifamily housing projects shall not exceed that total floor area which would be permitted for the total number of single family houses which would be allowed on the property under existing zoning. The allowable floor area, together with the amount of developable land, determines the density of development on the site. At both the Woodside Priory and the Sequoias, only a portion of the site could be used for residential development. The paragraph below explains the potential floor area and density for the Stanford Wedge site.
4. **Potential for Affordable Housing at the Stanford Wedge.** The Stanford Wedge site (Site 44 in the Site Inventory section) is the only multifamily site that is largely vacant. A small stable is located on the

site, which could be removed if the site were developed. A small portion of the site is located on the south side of Alpine Road. Altogether, the Stanford Wedge includes 89 acres of land, most of which is extremely steep with slopes in excess of 30%. The only developable portion that has access is some relatively flat land adjacent to Alpine Road. After accounting for required site setbacks, the developable portion of the site is 3.5 acres in size. Under current regulations, up to 28.48 market rate homes could be clustered together on this flat land. The town allows densities to increase up to three times when affordable multifamily housing is to be built, so that up to 85 units could then be built.

4. **Development Standards.** All multifamily housing projects are expected to meet all the normal general plan, zoning, subdivision and site development requirements that pertain to all residential development in the town, including Resolution No. 2279-2006 as amended. These standards are described earlier in this housing element, and include standards for road widths and right-of-ways as well as minimal landscaping standards. Current parking requirements are for 1 parking space for each studio or one-bedroom unit, and 2 parking spaces with two or more bedrooms. Development standards may be adjusted through a PUD where appropriate.

Particular care is expected to ensure the compatibility of the projects with adjacent neighborhoods and the town's rural environment.

5. **Occupancy.** The town considers this program particularly suited to providing housing for senior citizens and rental housing for households with incomes in the very low to low categories. If units are provided for sale, resale controls to preserve affordability will be required.
6. **Monitoring.** Each year, staff will monitor the progress that has been made on this program and report to the Planning Commission on the progress compared with the goals set forth in this program. The program will be revised if necessary to meet the goals.

2481a Objective: Fifteen new units have been built under this program in the past decade. At the Sequoias, eight new duplex units were constructed in 2003. Because these units are large, they are all considered to be in the above moderate income category. The Priory amended its use permit in 2001 to allow construction of seven new units for staff. These attached units were constructed in 2002. According to the 2008 report on these

units, they are now occupied by two low income, three moderate income and two above moderate income households.

In addition, the town has approved a master plan for the Priory School that would allow 11 additional units. School officials state that they anticipate constructing the homes within five years, and the provisions of their use permit mandate that the school work with town officials to ensure that these units meet the town's affordability guidelines. These units will be distributed roughly evenly between three income categories: four low income units, four moderate income units, and three above moderate income units.

The town will also monitor this program annually and adjust the program if necessary.

Excerpts from the Report to the Town Council
From the Portola Valley Ad-Hoc Committee on Affordable Housing
May 28, 2013

Recommendations for Specific Housing Programs

Priority 2: Affiliated Housing

1. Affiliated housing refers to housing that is located on a property which is primarily used for a purpose other than housing, and that provides housing for staff and employees of the entity having the primary use of the property.
2. Affiliated housing, including multi-family housing, may be appropriately provided on institutional properties in town, including the Priory, the Sequoias, the Stanford Wedge and other institutional properties that may become available in the future.
3. Some affiliated housing, possibly including multi-family housing, may be appropriate on some commercial properties, perhaps on a second floor or at the back of the property.
4. Some affiliated housing for agricultural uses, possibly including multi-family housing, may be appropriate on some larger parcels, if the housing is designed in a way that preserves the open rural character of the land.
5. As part of the next housing element update process, the town should identify potential sites for affiliated housing and actions to encourage the production of affiliated housing as appropriate. The committee has identified some possible ways to do this, which are listed in Appendix B, "Ideas for Encouraging Affiliated Housing."

Appendix B: Ideas for Encouraging Affiliated Housing*

1. Relaxing permitting requirements to reduce costs to owners, especially for affiliated multi-family units that are developed within the footprint of an existing structure (“internal” units)
2. Paying for planning and consultant efforts to identify appropriate land, geologic conditions, infrastructure assessment, unit densities, and permit and CEQA approval process support.
3. Subsidizing application, design, engineering, and approval costs.
4. Coordinating and facilitating funding of infrastructure support to housing sites. Exceptional costs for infrastructure improvements are an impediment to diversified housing development.
5. The town could provide information to employers in town about mechanisms they could use to affordably house employees, such as sustainable hiring, rental housing assistance, downpayment assistance, first-time homebuyer education, financial planning, and on-site housing. In addition, the town could coordinate efforts among the various employers in town.
6. A cooperative arrangement with MROSD on the former Woods property might be pursued to provide both affiliated and unaffiliated units. The next housing element could include such a plan.

* These ideas were identified at community meetings and through the committee's research. This is not an exhaustive list. The ideas have not been prioritized or assessed by the committee but provide some possibilities to consider in order to encourage the production of affiliated housing. Additional input from the community will be necessary.



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Chair and Members of the Planning Commission

FROM: Leigh F. Prince, Town Attorney

DATE: January 31, 2014

RE: State Density Bonus Law

INTRODUCTION:

State Density Bonus Law (Government Code Section 65915), a copy of which is attached, is a law adopted by the State of California to encourage applicants to include lower income housing units in their developments. When an applicant includes 35 or more senior housing units, includes a certain percentage of the units in a development of five or more housing units for low or very-low income households, or includes a certain percentage of housing units for moderate income households in a common interest development, a local government must grant the applicant a density bonus and one or more incentives for the production of housing units.

State Density Bonus Law (“SDBL”) applies to all cities and towns in the State of California. SDBL requires “all cities...shall adopt an ordinance that specifies how compliance with this section will be implemented.” The Department of Housing and Community Development is encouraging all local governments to adopt an implementation ordinance by providing streamlined review of the Housing Element for communities that have adopted such an ordinance. An implementation ordinance also provides a local government the opportunity to have more control over the process and to outline application requirements for those projects seeking to take advantage of SDBL.

Compliance with SDBL is mandatory and “failure to adopt an ordinance shall not relieve a city... from compliance with this section.” All local governments, including the town, must provide a density bonus and incentives in accordance with SDBL regardless of whether or not an implementation ordinance has been adopted.

DISCUSSION:

SDBL is intended to contribute significantly to the economic feasibility of lower income housing. To that end, SDBL outlines density bonus percentages, incentives and waivers to which an applicant is entitled if certain thresholds are met.

Thresholds:

SDBL requires local governments to grant a density bonus and one or more incentives when an applicant constructs a housing development (five or more units) that will contain at least one of the following:

1. Ten percent (10%) of the total units for low income households.
2. Five percent (5%) of the total units for very-low income households.
3. At least 35 senior citizen housing units.
4. Ten percent (10%) of the total units in a common interest development for persons and families of moderate income.

The language of SDBL is mandatory and if an applicant satisfies any of these threshold requirements, a local government must provide a density bonus and one or more incentives in accordance with SDBL (regardless of whether that community has adopted an implementation ordinance).

The total number of units for the purpose of calculating the percentages described above does not include units added by a density bonus awarded pursuant to SDBL. For example, if an applicant proposed five units, with twenty percent (20%) of those units (or one unit) set aside as a moderate income unit, the project would be entitled to a fifteen percent (15%) density bonus or one additional unit under SDBL for a total project of six units. The total number of units for the purposes of calculating the threshold percentage identified above is five units, not six units. Based on a five unit base project and the provision of one moderate income unit, the project would satisfy the threshold identified above and could take advantage of SDBL.

SDBL requires the applicant to restrict the low or very-low income units for at least 30 years. For moderate income units, the developer shall ensure that the initial occupant is a person or family of moderate income. There is no specific restriction regarding affordability for senior housing units; however, senior units are by definition age restricted to residents over 55 years of age. (Civil Code Section 51.3)

Density Bonus:

The percentage density bonus to which an applicant may be entitled for the provision of low income, very-low income and moderate income units is detailed in the tables found in Section 65915(f). For example, if a project provides ten percent (10%) of the units as moderate income, the table indicates that the project would be entitled to a five percent (5%) density bonus. This means in a 20 unit project, if the applicant provides two moderate income units, the applicant is entitled to build one additional market rate unit for a total of 21 units, even if that exceeds the density allowed under the zoning code. Where the density bonus percentage would result in a fractional unit, SDBL provides "all density calculations resulting in fractional units shall be rounded up to the next whole number." The maximum percentage density bonus provided for in any of the

tables is thirty-five percent (35%) and SDBL does not mandate the provision of a higher percentage.

The tables found in Section 65915(f) also illustrate that the more low income units provided, the greater the percentage density bonus. There is also a higher percentage density bonus awarded for very-low income units as opposed to low or moderate income units. If a project provided a mix of affordability levels, the project would utilize the density bonus from only one affordability category. Senior housing is slightly different in that there is a flat density bonus of twenty percent (20%) of the number of senior housing units developed. The bonus units must be senior units; however, there are no affordability requirements for any of the units.

Incentives:

An applicant may submit a proposal for specific incentives. An incentive means any of the following:

1. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that result in identifiable, financially sufficient, and actual cost reductions.
2. Approval of mixed use zoning in conjunction with a housing project.
3. Other regulatory incentives proposed by the applicant that result in identifiable, financially sufficient, and actual cost reductions. An incentive may, but need not be, the provision of a direct financial incentive such as the waiver of fees.

The number of incentives an applicant is entitled to depends upon the percentage of low, very-low or moderate income units provided (no incentive is provided for the provision of non-income restricted senior units). The applicant shall receive the following number of incentives:

1. One incentive for projects that include at least ten percent (10%) of the total units for low or moderate income households, or at least five percent (5%) for very-low income units.
2. Two incentives for projects that include at least twenty percent (20%) of the total units for low or moderate income households, or at least ten percent (10%) for very-low income units.
3. Three incentives for projects that include at least thirty percent (30%) of the total units for low or moderate income households, or at least fifteen percent (15%) for very-low income units.

The town shall grant the incentives requested by the applicant, unless the town makes a written finding, based upon substantial evidence, of any of the following:

1. The incentive is not required to provide for affordable housing costs as defined in Health and Safety Code Section 50052.5 which defines affordable housing costs for very-low, low and moderate income housing.
2. The incentive would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health and safety or

the physical environment or on any real property listed in the California Register of Historical Places. Government Code Section 65589.5 defines a specific adverse impact as a significant, quantifiable, direct and unavoidable impact, based on objective written public health or safety standards, policies or conditions as they existed at the time the application was complete.

3. The incentive would be contrary to federal or state law.

There is no guidance in SDBL as to how to determine whether the incentive is required to provide for affordable housing costs. This basis for denial of a requested incentive could be interpreted as a financial feasibility determination. If there is substantial evidence in the record (whether provided by the applicant or a consultant hired by the town) that the incentive is not needed to make the project financially feasible, then the town could make this finding and deny the incentive on this basis. If, however, the applicant can show a reduction in the requested incentive would make the project financially infeasible and, therefore, the project and its lower income units would not be built, it would be difficult for the town to make this finding.

SDBL does provide some guidance on making the second finding. A specific adverse impact cannot be inconsistency with the zoning ordinance or general plan land use designation. A specific adverse impact means a significant, quantifiable, direct and unavoidable impact, based on objective written public health or safety standards, policies or conditions as they existed at the time the application was complete. Government Code Section 65589.5(d)(2). For example, the town cannot make a finding that the maximum floor area ratio in the zoning ordinance was established to protect public health and safety and, therefore, deny the request for an incentive to exceed the maximum floor area ratio—something more is required. An environmental impact report, if needed for the project, could provide the basis for such a finding because an environmental impact report would analyze if there are any significant, quantifiable, direct and unavoidable impacts from the project.

The third finding is the simplest. If the incentive would be illegal, the town can refuse to grant it. If there is a state or federal law which the incentive would violate, then the town can make this finding and deny the requested incentive.

Development Standard Waiver:

In addition to one or more incentives, an applicant may be entitled to development standard waivers if the application of a development standard would physically preclude construction of a project that includes lower income housing. SDBL does not place a limit on the number of development standard waivers an applicant may request. A development standard includes site or construction conditions, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open space requirement, or a parking ratio that applies to a residential development. For example, a developer may propose a development waiver that reduces the setback requirement by a certain number of feet to accommodate the increased density provided pursuant to SDBL. To be entitled to the waiver, the developer would have to show that without the waiver, the project would be physically impossible to construct.

There is no guidance in the statute as to how to define “physically precluded.” In a recent case, a petitioner challenging a project argued that granting the waiver was illegal because it was granted to accommodate certain project amenities, including an interior courtyard, community plaza and higher ceilings. The court stated that “nothing in the statute requires the applicant to strip the project of amenities....Standards may be waived that physically preclude construction of a housing development meeting the requirements for a density bonus, period.” The court’s reasoning suggests that a town may not micromanage the design of a project and if the project meets the requirements of SDBL, the town must grant waivers so that the project as designed is not physically precluded from being developed.

SDBL requires a local government to grant the requested development standard waiver, unless it can find that the waiver would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment or any property listed on the California Register of Historical Places or would be contrary to federal or state law. The basis on which to deny a requested development standard waiver does not include the financial feasibility analysis that was included in the incentive discussion, but the analysis of the other two remaining bases for denial are the same for a development standard waiver as for an incentive.

The town, could however, interpret the waiver concept to mean that the waiver would not need to be more than what would be justified by the increase in density. The City of Menlo Park has an ordinance that includes this interpretation. For example, to accommodate a ten percent (10%) increase in density allowed pursuant to the SDBL, the town could conclude that a corresponding 10% increase in floor area ratio or decrease in setback would constitute an adequate waiver to physically accommodate construction. If the town determined this was a reasonable interpretation, this interpretation could be codified in the implementation ordinance making it clear to applicants how the SDBL waiver concept would be implemented.

A waiver or reduction of development standards neither reduces nor increases the number of incentives to which the applicant is entitled. Therefore, if the project needs a modification to the setback requirement to physically build the project, the setback modification is a waiver, not an incentive, and the developer is still entitled to an incentive (which, as defined above, can include a reduction in site development standards or a modification of zoning code requirements or architectural design requirements that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions).

Parking:

Upon request of the applicant, no local government shall require a parking ratio, inclusive of handicapped and guest parking, of a development that provides low, very-low or moderate income housing or senior housing, that exceeds the following ratios:

1. Zero to one bedroom, one onsite parking space.
2. Two to three bedrooms, two onsite parking spaces.
3. Four or more bedrooms, two and one-half parking spaces.

As a result of the mandatory language in SDBL, these parking ratios preempt local parking ratios and will, upon applicant request, be applied to the project that meets the lower income requirements of SDBL. The total number of required spaces shall be rounded up to the next whole number. State law provides that onsite parking may be provided through tandem or uncovered parking spaces (preempting local requirements), but not on-street parking.

Discretionary Approvals:

The granting of a density bonus or incentive shall not be interpreted in and of itself to require a general plan amendment, zoning change or other discretionary approval. As a result, if an incentive such as an increase in floor area ratio would otherwise trigger one of these approvals, when it is granted as an incentive, no general plan amendment, zoning ordinance or other discretionary approval is required.

However, if the base project without the incentive requires a general plan amendment, zoning ordinance amendment or other discretionary approval such as a conditional use permit or architectural review, the town retains its discretion to either make or not make the required findings for the approval of the base project. SDBL does not mandate that a town approve a general plan amendment, zoning ordinance amendment or other discretionary approval simply because the project is providing lower income units. There is nothing in the statutory language that suggests there is “by-right” development. The town retains discretion in approving applications for general plan amendments, zoning changes, use permits for the approval of the base project.

Failure to Comply:

If a town denies a project, density bonus, incentive or development standard waiver, an applicant may bring a writ of mandate requesting that the court order the town to grant the density bonus, incentive, or development standard waiver and approve the project. If the court determines that the town denied the project, density bonus, incentive or development standard waiver in violation of the law, the court may order the project with the density bonus, incentive or development standard waiver approved and the town will have no more discretion related to project approval. Furthermore, if the court determines that the town denied the density bonus, incentive or development standard waiver, in violation of SDBL, the court will award the developer reasonable attorneys’ costs and fees.

Implementation Ordinance:

While an implementation ordinance is not necessary because SDBL will apply to the town even in its absence, it is appropriate to draft an ordinance to outline the procedural process the town will follow in reviewing applications utilizing the SDBL and its interpretation of the SDBL. An implementation ordinance could be a simple requirement that the application include information evidencing that the thresholds of SDBL have been met, supply appropriate calculations related to the density bonus, and provide information describing the requested incentive and evidence that the requested incentive results in identifiable, financially sufficient and actual cost reductions.

With respect to incentives, the evidentiary requirements could include items such as requiring the developer to provide a pro forma justifying the financial need for the requested incentive and requiring the applicant to pay for a consultant review of the pro forma. An implementation ordinance would also allow the town to identify in advance of any applications those incentives which it prefers. For example, if the town has a preference for particular incentives, it could identify those in the ordinance and perhaps, as an encouragement for a developer to utilize a listed incentive, reduce the associated application requirements. This is the approach the City of Palo Alto took in creating a “menu” of preferred incentives that could be approved without review of a developer’s financial information.

ATTACHMENT: California Government Code Section 65915

cc: Deputy Town Planner
Town Manager

C

Effective: January 1, 2014West's Annotated California Codes [Currentness](#)Government Code ([Refs & Annos](#))Title 7. Planning and Land Use ([Refs & Annos](#))▣ [Division 1. Planning and Zoning \(Refs & Annos\)](#)▣ [Chapter 4.3. Density Bonuses and Other Incentives \(Refs & Annos\)](#)**→→ § 65915. Applicants seeking density bonus; incentives or concessions for lower income housing units and child care facilities; conditions, agreements and submission requirements; duties of local officials**

(a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(b)(1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in [Section 50079.5 of the Health and Safety Code](#).

(B) Five percent of the total units of a housing development for very low income households, as defined in [Section 50105 of the Health and Safety Code](#).

(C) A senior citizen housing development, as defined in [Sections 51.3 and 51.12 of the Civil Code](#), or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to [Section 798.76](#) or [799.5 of the Civil Code](#).

(D) Ten percent of the total dwelling units in a common interest development as defined in [Section 4100 of the Civil Code](#) for persons and families of moderate income, as defined in [Section 50093 of the Health and Safety Code](#), provided that all units in the development are offered to the public for purchase.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), the applicant who requests a density

bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(3) For the purposes of this section, “total units” or “total dwelling units” does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c)(1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all low- and very low income units that qualified the applicant for the award of the density bonus for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in [Section 50053 of the Health and Safety Code](#). Owner-occupied units shall be available at an affordable housing cost as defined in [Section 50052.5 of the Health and Safety Code](#).

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in the common interest development, as defined in [Section 4100 of the Civil Code](#), are persons and families of moderate income, as defined in [Section 50093 of the Health and Safety Code](#), and that the units are offered at an affordable housing cost, as that cost is defined in [Section 50052.5 of the Health and Safety Code](#). The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in [subdivision \(e\) of Section 33334.2 of the Health and Safety Code](#) that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(d)(1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in [Section 50052.5 of the Health and Safety Code](#), or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific adverse impact, as defined in [paragraph \(2\) of subdivision \(d\) of Section 65589.5](#), upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in [paragraph \(2\) of subdivision \(d\) of Section 65589.5](#), upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section.

(e)(1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in [paragraph \(2\) of subdivision \(d\) of Section](#)

65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, “density bonus” means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33

39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g)(1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in [paragraph \(3\) of subdivision \(c\) of Section 65583.2](#), and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by [subdivision \(i\) of Section 65583.2](#) if the design is not reviewed by the local government prior to the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h)(1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and schoolage child care centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in [Section 4100 of the Civil Code](#), approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in [subdivision \(d\) of Section 65863.4](#), where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with [Section 18901](#)) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses

will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with [Section 30000](#)) of the [Public Resources Code](#)).

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p)(1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through onstreet parking.

(3) This subdivision shall apply to a development that meets the requirements of subdivision (b) but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

CREDIT(S)

(Added by Stats.1979, c. 1207, p. 4748, § 10, eff. Oct. 2, 1979. Amended by Stats.1982, c. 1263, § 2, eff. Sept. 22, 1982; Stats.1983, c. 634, § 1; Stats.1984, c. 1333, § 2; Stats.1989, c. 842, § 3; Stats.1990, c. 31 (A.B.1259), § 3, eff. March 26, 1990; Stats.1991, c. 1091 (A.B.1487), § 64; Stats.1998, c. 689 (S.B.1362), § 6; Stats.1999, c. 968 (S.B.948), § 7; Stats.2000, c. 556 (A.B.2755), § 1; Stats.2002, c. 1062 (A.B.1866), § 3; Stats.2003, c. 430 (A.B.305), § 1; Stats.2004, c. 724 (A.B.2348), § 5; Stats.2004, c. 928 (S.B.1818), § 1; Stats.2005, c. 496 (S.B.435), § 2; Stats.2008, c. 454 (A.B.2280), § 1; Stats.2012, c. 181 (A.B.806), § 53, operative Jan. 1, 2014; Stats.2013, c. 76 (A.B.383), § 102.)

Current with all 2013 Reg.Sess. laws, all 2013-2014 1st Ex.Sess. laws, and Res. c. 123 (S.C.A.3)

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