



TOWN OF PORTOLA VALLEY
REGULAR PLANNING COMMISSION MEETING
765 Portola Road, Portola Valley, CA 94028
Wednesday, March 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. Continued Housing Element Study Session – Review and discuss draft site inventory and outline of potential changes to housing programs
2. State Density Bonus Law and Draft Implementation Ordinance – Presentation by Town Attorney

Commission, Staff, Committee Reports and Recommendations

Approval of Minutes: December 18, 2013, January 15, 2014 and February 5, 2014

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.

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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: February 28, 2014

CheyAnne Brown
Planning Technician



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Planning Commission

FROM: Karen Kristiansson, Deputy Town Planner

DATE: February 27, 2014

RE: Draft site inventory and outline of potential changes to housing programs

The March 5, 2014 housing element study session will include a review of the draft site inventory and a discussion of potential changes to the Town's housing programs. The potential changes discussed below are based on discussion and direction provided by the Planning Commission at five study sessions that have been held on the housing element update on the following dates:

- November 20, 2013
- December 4, 2013
- December 18, 2013
- January 15, 2014
- February 5, 2014

Information about each of these meetings, including the staff reports for each, is available on the Town's website.

The Planning Commission should consider and comment on the draft site inventory, and should review the potential changes to the housing programs and provide direction to staff as to whether these changes reflect the Commission's discussions to date. In addition, the Commission should consider whether additional changes should be incorporated into the housing element programs.

A letter from three advocacy groups, including the Housing Leadership Council of San Mateo County, is also attached with a document they have prepared entitled "Housing Element Best Practices." This document provides information and links to resources for several items the Town has discussed or is considering, including inclusionary housing, housing impact fees, second-unit law, state density bonus law, and home sharing.

Draft Site Inventory

A draft of the site inventory portion of the housing element is attached for the Planning Commission's review. The draft is based on the site inventory from the 2009 Housing

Element and follows the same format. The data in the site inventory has been updated, including the table listing the vacant or largely vacant parcels in Town. This is in the process of being double-checked and minor corrections or refinements could be made, but the data is not likely to change significantly.

The site inventory also includes estimates of the number of housing units that could be provided in town during the eight-year planning period through all of the Town's housing programs. These estimates are summarized on the last page of the draft site inventory and include the following:

- 26 new market rate units anticipated in town, assuming the rate of construction from the last ten years continues;
- 1 low income unit which has been approved for the Sausal Creek development;
- 11 new units that were approved as part of the 2005 Master Plan for the Priory, including an anticipated 3 low income units and 4 moderate income units; and
- 52 second units, which could be provided if the Town increased production of second units from the current average of 5.3 second units per year during the 2009-2014 planning period to date to an average of 6.5 second units per year.

Taken together, these would comply with state housing requirements because they could be expected to yield:

- 40 housing units for households with low through extremely low incomes, compared to 36 units that are required by the Town's RHNA;
- 15 moderate income housing units, which is exactly equal to the amount required; and
- 40 above moderate income housing units, which is well above the 13 units that are required.

The draft site inventory also includes an updated site inventory map, as well as new maps showing both potential areas for affiliated affordable housing sites and potential areas for second units. All of these maps should be considered drafts and could be adjusted. For example, the site numbers on the inventory map may be adjusted to remove the "not used" numbers, and the formatting will change to make the numbers larger. The maps of second unit areas also includes approximate information on where existing permitted second units are located in town, although that information may not be included on the final version of the map that is submitted to the state. Staff is also considering updating or replacing Exhibits 1-6, which currently are the same as they appeared in the 2009 Housing Element.

Potential Changes to Housing Element Programs

The 2009 Housing Element included thirteen programs. Five of these programs have been fully implemented and do not need to be included in the 2014 Housing Element Update; these are shown in ~~strikeout~~ in the list below. Three of the programs are likely to continue in a form very similar to how they operate currently, and no significant changes are anticipated; these are shown in *italics* in the list below. The remaining five programs are shown in **bold**, and each of these is discussed separately below.

- 1. Inclusionary Housing**
- 2. Multifamily Housing**

3. Second Units~~4. Waiver of Fees~~~~5. Shared Housing~~~~6. Emergency Shelters~~**7. State-Required Density Bonus**~~8. Fair Housing~~~~9. Removal of Constraints to Housing for People with Disabilities~~**10. Housing Impact Fee**~~11. Farmworker Housing Zoning Amendments~~~~12. Transitional and Supportive Housing Zoning Amendments~~~~13. Continue Existing Energy Conservation Measures and Implement Sustainability Element~~***Inclusionary Housing***

The inclusionary housing program was discussed at the Planning Commission's January 15, 2014 study session. The program currently requires any subdivision with seven or more lots to set aside 15% of the lots for below market rate (BMR) housing. The number of units to be built on these lots is determined through the PUD process. Subdivisions with fewer than seven lots pay a fee in lieu of providing a lot. In order to offset the costs to the developer, the town provides a 10% density bonus for all subdivisions that are subject to this requirement. This is the program that led to the town owning the BMR lots in Blue Oaks.

Based on the Planning Commission's discussion in January, the 2014 housing element will call for the Town to update the inclusionary housing program to require that developers build the below market rate units required for any subdivision that would have to provide at least one full unit. Fractional units could be accounted for through an in-lieu fee. The percentage of below market rate housing required should be based on a nexus study, and the Planning Commission recommends that the Town therefore participate in the ongoing county-wide study through the 21 Elements program.

Affiliated Housing (formerly Multifamily Housing)

The affiliated housing program was discussed at the Planning Commission's February 5, 2014 study session. This program 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.

Based on the Planning Commission's discussion, the treatment of affiliated housing at institutions would not change in the 2014 housing element. However, the Commission

did decide that the Town should explore the possibility of allowing affiliated housing on commercial properties, with no more than one housing unit per parcel. This would likely be set forth as a new program in the housing element, which could also include other ideas the Town might like to explore moving forward.

Second Units

The second units program has been discussed at a number of Planning Commission study sessions (November 20, 2013; December 4, 2013; December 18, 2013; and January 15, 2014), and the ASCC also reviewed several potential changes at its January 13, 2014 meeting at the request of the Planning Commission. The program currently allows second units to be built on residentially zoned parcels with one acre or more, subject to the performance standards that are contained in Section 18.12.040.B of the zoning ordinance.

Based on the Planning Commission's discussion, the 2014 housing element will call for the Town to update this program as follows:

- To allow second units on lots that are two acres or more to have up to 1,000 square feet, rather than the current limit of 750 square feet;
- To allow parcels that are 3.5 acres or more in size to have two second units, with the requirements that one second unit be attached to the main residence and that each unit fully comply with the requirements of the zoning code, including separate parking spaces; and
- To update the performance standards in the zoning ordinance to allow staff-level review and approval of second units up to 750 square feet, rather than the current limit of 400 square feet, as long as the second unit would not require Commission approval of a site development or other permit.

Staff estimates that these changes could encourage the construction of approximately one more second unit per year than is currently being permitted.

State-Required Density Bonus

This program has been in the Town's housing element since 1990 and was discussed at two previous Planning Commission meetings (January 15 and February 5, 2014). The Town Attorney will be presenting more information at the March 5 Planning Commission meeting at the Commission's request so that the requirements and implications of State Density Bonus Law are clearly explained. If the Commission concludes that the Town should move forward with a density bonus law, and the Town Council adopts an implementing ordinance before the housing element is submitted to HCD, this program would no longer need to be included in the housing element.

Housing Impact Fee

The Planning Commission has not discussed the idea of a housing impact fee, although the idea was mentioned in the discussion of updating the Town's inclusionary housing program. The Commission is recommending that the Town participate in the county-wide nexus study so that the results of that study can be used to reformulate the Town's inclusionary housing program. Because the nexus study could also be used to develop a housing impact fee, it would make sense to consider a housing impact fee at the same time.

In the 2014 Housing Element, Program 1 would therefore include participating in the nexus study and using the result to update the inclusionary housing program and consider a housing impact fee.

Summary of Potential 2014 Housing Element Programs

Based on the information presented above and the previous discussions of the Planning Commission, the programs for the 2014 Housing Element would likely include the following:

Program 1: Inclusionary Housing and Potential Housing Impact Fee

This program would call for the Town to participate in the county-wide nexus study and use the results to revise its inclusionary housing program and consider a housing impact fee. The inclusionary housing program should require developers to build the below market rate units required rather than only providing the land.

Program 2: Affiliated Housing

This program would continue the Town's existing program for allowing affiliated affordable multifamily housing on three designated institutional properties. The Town would continue to work with the property owners and encourage the production of housing on the sites.

Program 3: Second Units

This program would continue the Town's second units program and would make three changes to increase second unit production by about one unit per year. These three changes are:

1. Allow second units up to 1,000 square feet on lots with two or more acres;
2. Allow two second units on lots with 3.5 or more acres; and
3. Update performance standards to allow staff approval of second units up to 750 square feet when no additional Commission-level approvals (such as a site development permit) are required.

Program 4: Shared Housing

This program would continue the Town's shared housing program by maintaining the Town's relationship with HIP Housing and publicizing the program. There would be no significant changes to this program.

Program 5: Fair Housing

No significant changes are anticipated for this program; the Town would continue to participate in the San Mateo County fair housing program.

Program 6: Energy Conservation and Sustainability

The Town will continue to encourage energy conservation and sustainability. This program will be updated to reflect the Town's current efforts in these areas but will not call for significant new actions.

Program 7: Explore Future Housing Needs and Potential Housing Programs

This program would address the "vision" component of the housing element and would call for the Town to examine its likely housing needs beyond

2022. As part of this program, the Town would explore two items in particular:

1. The possibility of expanding the affiliated housing to commercial sites, so that employers could provide up to one unit of employee housing on each commercial parcel; and
2. Potential uses of the money in the Town's in-lieu housing fund, including the money from the sale of the Blue Oaks BMR lots.

Other potential programs, including some additional best practices listed in the February 24 letter from the housing advocacy groups, could be explored as part of this process.

Looking Ahead

The Planning Commission is next scheduled to discuss the housing element at its April 2 meeting. At that meeting, the Commission would review a draft of the demographic background sections of the element and would also review a draft of the housing element programs. A complete draft of the housing element will hopefully be available for the Commission to consider at its May 7 meeting.

As was mentioned to the Commission previously, staff is also discussing arrangements for consultant assistance with the housing element, and will hopefully have those arrangements finalized and approved in the next few weeks. Based on discussions to date, it appears that the housing element process will be able to stay on schedule.

Attachments: February 24, 2014 Letter Re: Housing Element Policy Best Practices
Draft 2014 Site Inventory

cc. Mayor
ASCC
Town Manager
Town Planner
Town Attorney

February 24, 2014

Karen Kristianson
Town of Portola Valley
765 Portola Road
Portola Valley, CA 94028

RE: Housing Element Policy Best Practices

Dear Karen,

As jurisdictions across San Mateo County prepare their local Housing Elements for the latest cycle of the Regional Housing Needs Allocation (RHNA) process, a coalition of concerned community groups has formed to engage with these local processes and provide constructive input to the drafts that are submitted to HCD for consideration. Borne out of concern for the increasing inability of average people to live in the communities in which they work, the interest of this coalition is to serve as a resource to policy makers and housing staffs and to help ensure that the housing elements adequately reflect the community's urgent affordable housing need. Enclosed is a document that we hope will serve to inform staff and policymakers about options that are available to them to meet their community's escalating housing needs.

Given the gravity of our current housing situation, the loss of vital tools and funding sources for affordable housing creation, we maintain that it is time for our local jurisdictions to make a determined effort to address the affordable housing crisis in our communities. We encourage you to review the enclosed inventory of policies with an eye toward incorporating as many as possible in your housing element draft. The current housing element cycle is the last substantive opportunity jurisdictions will have to make a comprehensive review of affordable housing policies for another eight years. On behalf of a community in need, we ask you to take the greatest possible advantage of it.

For more information, please call Joshua Hugg, Program Manager at Housing Leadership Council of San Mateo County, at jshugg@hlcsmc.org or (650) 872-4444, 2#.

Sincerely,

*Housing Leadership Council of San Mateo County
San Francisco Organizing Project/Peninsula Interfaith Action
Greenbelt Alliance*

cc. Paul McDougall, California Department of Housing and Community Development

Housing Element Policy Best Practices

Version 1.0

Updated: February 21, 2014

Introduction:

Policies, programs, and parcels. Every eight years cities and counties across the Bay Area are charged with identifying policies, programs, and parcels that will help ensure their respective communities take stock of their current housing needs and identify how they will meet the challenges of changing demographics, new workers, and shifting funding sources in the future.

Given the changes that have taken place over the last several years, the need for robust housing policies in the Bay Area has reached critical levels. Cuts in local, state and federal funding sources; the continuing search to find an alternative to local inclusionary housing programs scuttled by the *Palmer v. City of Los Angeles* case; and the loss of local Redevelopment Agencies have created an environment in which the creation of inclusive communities that meet larger sustainability goals is becoming exceedingly difficult. In addition, while Plan Bay Area promotes greater sustainability and equity for the region in the long term, its emphasis on growth in Priority Development Areas has the potential to add to these challenges in the short term.

This compilation of policies is intended to serve as a resource for local government practitioners and housing stakeholders to help meet the community challenges that are felt so acutely here in the San Francisco Bay Area. The Bay Area is known across the globe for its innovation and dynamic culture and so this resource is also meant to be a living document that will help to capture policy innovations and best practices in the housing arena as they are identified and make them available to those who wish to make our region as livable, prosperous, and inclusive as possible.

If you have comments, questions or additions to make, please contact Joshua Hugg, Program Manager, Housing Leadership Council of San Mateo County - (650) 872-4444, 2# or jshugg@hlcsmc.org.

Acknowledgements

Thank you to the following organizations who contributed to the creation of this resource:

- Association of Bay Area Governments - www.abag.ca.gov
- East Bay Housing Organizations - www.ebho.org
- HIP Housing - www.hiphousing.org
- Law Foundation of Silicon Valley - www.lawfoundation.org
- Housing Leadership Council of San Mateo County - www.hlcsmc.org
- Northern California Land Trust - www.nclt.org

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Anti-Displacement Policies

Summary and Benefits:

More intensive development in Priority Development Areas and other transit-served locations carry with it the risk of displacement of existing low income populations. To ensure that Transit Oriented Development (TOD) serves all economic levels, provisions need to be in place to protect against such displacement. Local Housing Elements should address the risk of both direct and indirect displacement and should include anti-displacement policies in their implementation programs.

Potential Policies:

- Establish a policy commitment and orientation to development without displacement.
- Consider displacement risks early in the development process. By the time displacement becomes apparent, the process may be too far gone to halt or reverse.
- Focus on both direct displacement (evictions, demolitions, etc.) and indirect displacement (rent increases, cultural displacement as existing retail/entertainment/services uses are replaced with uses serving higher income populations).
- Stabilize existing lower income residents/housing. Consider such policies as [rent stabilization](#), [just cause eviction ordinances](#), one-for-one replacement of any housing removed from the supply, [condominium conversion controls](#).
- Make affordable housing a key component of development strategy from the beginning. It's far easier to include affordable housing early on than to try to incorporate after property values (and land costs) rise.

Specific policies/programs to consider:

- [Rent Stabilization](#)
- [Just Cause Eviction Controls](#)
- [Relocation Benefits and First Right of Return](#)
- Return Foreclosed Properties to the Lower Income Supply
- [One-for-One Replacement Housing Requirements](#)
- [Preservation of Expiring Use Properties](#)
- [Small and Scattered Site Acquisition in PDAs and Other Transit-Served Locations](#)
- [Land Banking in PDA and Other Transit-Served Locations](#)
- [Infill Incentives Tied to Affordable Housing Provisions](#)

Many of these policies are described in more detail elsewhere in this document.

Model Ordinances/Useful Sources:

- City of East Palo Alto, link: <http://www.ci.east-palo-alto.ca.us/index.aspx?NID=469>

Condo conversion requirements

Summary and Benefits:

Condominium conversions refer to the process of converting a multi-unit rental property held in single ownership into one in which the units may be individually bought or sold. Jurisdictions generally receive condominium conversion requests when selling housing becomes more profitable than renting or leasing. Under California law, tenants have certain protections such as the exclusive right to purchase the property under the same terms that the unit is being offered to the general public and 180 days' notice of intent to end the tenancy (§66452.19). Though tenants enjoy these protections, they often cannot afford the necessary down payment or the monthly mortgage to own their home. Hence, while condo conversions may offer a more affordable homeownership opportunity for some households seeking to buy, they can displace existing tenants and reduce a jurisdiction's rental housing stock without increasing housing supply. Through their zoning power, jurisdictions have the authority to put in place additional restrictions on condominium conversions. These ordinances may be justified due to jurisdictions' limited housing stock and their state mandate to maintain an adequate housing supply for all economic segments of the population.

As of May 2013, 55 of the Bay Area's 109 jurisdictions have some sort of condominium conversion ordinance. These ordinances greatly vary in the types of protections they offer to tenants and may or may not impose numerical limits on condo conversions.

Potential Policies:

- Stricter provisions for condominium conversions through additional tenant protections including: relocation assistance, lifetime leases, restrictions on rent increases, discounts for tenants on the sale price of the property
- Limitations on the number of units that can be converted in any given year
- Provide one for one replacement of converted units
- Require that a percentage of converted condos be sold at affordable prices
- Mandate payment of a fee into an affordable housing trust fund

Model Ordinances/Useful Sources:

- League of California Cities Primer on Condominium Conversions:
<http://www.cacities.org/UploadedFiles/LeagueInternet/c5/c5e504c3-e261-4986-b983-c964db35d7c0.pdf>
- City of Lafayette requires owners to pay tenants moving expenses and limits the number of conversions, link: <http://ci.lafayette.ca.us/Modules/ShowDocument.aspx?documentid=742>
- City of Larkspur imposes restrictions on rent increases, requires that some of the converted units be sold at below market rates, and limits the annual number of conversions, link: <http://www.codepublishing.com/ca/Larkspur/html/larkspur18/larkspur1838.html#18.38.030>
- City of San Carlos limits the number of annual conversions based on the vacancy rate and provides tenants with relocation assistance, link: <http://www.codepublishing.com/ca/sancarlos/html/sancarlos17/sancarlos1748.html#17.48.020>

Just Cause Eviction

Summary and Benefits:

Just cause eviction ordinances protect tenants from arbitrary, discriminatory or retaliatory evictions, while ensuring that landlords can lawfully evict tenants as long as they have a good reason. Just cause eviction ordinances are an important tool for promoting tenant stability, particularly in low-vacancy and expensive housing markets where landlords may be tempted to evict tenants in order to obtain higher rents. Benefits of just cause eviction ordinances include the following:

- limits the ability of landlords to evict existing tenants
- protects tenants who have short term (month-to-month) leases
- slows down rapid increases in rent
- stabilizes communities by slowing down evictions and decreasing turnover rates

Potential Policies:

- Partner with local non-profit to provide tenant rights education and mediation services
- Consider just cause eviction ordinances or provisions that:
 - Specify actions that can lead to a just cause eviction, such as:
 - Failure to pay rent
 - Use of premises for illegal purposes
 - Failure to follow rules and regulations the landlord has for the tenants of the building
 - Failure to meet obligations toward the property as required by state law
 - Landlord seeks to recover possession of the rental unit for landlord's own use as principal residence or for the use of landlord's family members as principal residence
 - Landlord seeks to permanently remove rental unit from the housing rental market
 - Require landlord to specify just cause in the notice of termination
 - Allow expedited review of unjust evictions

Model Ordinances/Useful Sources:

- City of East Palo Alto, link: <http://www.ci.east-palo-alto.ca.us/index.aspx?NID=469>
- City of Oakland:
<http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment/DOWD008793>
- City of Berkeley: <http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=9284>
- PolicyLink - Just Cause Eviction Controls:
<http://www.policylink.org/site/pp.aspx?c=1kIXLbMNJrE&b=5138069>

Preservation of Existing Affordable Housing

Summary/Current Problem:

Preserving the supply of affordable rental housing, both subsidized and unsubsidized, enables people to stay in their homes and communities (part of the larger anti-displacement strategy). Under programs such as Section 8 and the Low-Income Housing Tax Credit program (LIHTC), owners agree to maintain affordable rents for a set period, usually 15-30 years, in exchange for federal subsidies. When those agreements expire, owners can re-enroll in the affordability programs or convert their properties to market-rate units. In some cases, private owners can leave subsidized programs before rent restrictions expire by prepaying their mortgages after a set number of years. Another reason for loss in affordable units is when owners are ineligible due to financial/physical problems or the property is located in an area with high vacancy rents and high contract rents.

Based on the National Housing Preservation Database, CHPC compiled [a list of federally-assisted properties at-risk of conversion](#) due to the expiration date of a rental assistance contract or the maturing of a HUD mortgage with affordability restrictions. For San Mateo County, 430 affordable units are at-risk within the next year and another 164 affordable units will be at-risk by 2016.

Benefits:

- Preservation typically costs about one-half to two-thirds as much as new construction (HUD). According to a 2013 study by the Center for Housing Policy on affordable multifamily rental housing, savings from rehabilitation are realized even when accounting for the full lifecycle of a property. Although costs such as maintenance expenses may be higher over the life of a rehabilitated property, rehabilitation is still more cost effective than new construction. According to the study, when controlling for location, project size, average unit size, building type, and year of development, new construction costs between \$40,000 and \$71,000 more than acquiring existing developments.¹
- Preservation has positive for the community. For example, in gentrifying neighborhoods, preserving affordable rental housing promotes economic diversity, creating/sustaining a mixed-income neighborhood. Helping residents stay in their neighborhoods allows them to take advantage of improvements such as increased access to transit, jobs, and services.

Potential Policies:

- Update inventory of at-risk and lost units/properties
 - Track changes in affordability levels, subsidy type, conversion status, building conditions, conditions that may cause loss of properties in 5, 10, 20, 30 years (tax-credit time limits, loan maturities, etc.)
- Require one-to-one replacement of any affordable units that are razed, removed from stock, or converted to condominiums
- Provide/require platform for public input (such as public hearings or comment period) during the 12 months when owner gives notice with intent to discontinue subsidies or expiration of rent restriction

¹ Maya Brennan, Amy Deora, Anker Heegaard, Albert Lee, Jeffrey Lubell, and Charlie Wilkins. 2013. "Comparing the Costs of New Construction and Acquisition-Rehab In Affordable Multifamily Rental Housing: Applying a New Methodology for Estimating Lifecycle Costs," Center for Housing Policy, 11.

- Provide funding for rehabilitation and/or purchase of at-risk properties
 - Prioritize and utilize funds from HOME and CDBG for preservation (South San Francisco, Housing Element Policy 3-2, 3-3)
 - Early coordination to identify sources of financing to enable non-profit ownership
- Waive permit fees for affordable housing rehabilitation conducted through CDBG or other San Mateo County programs (San Bruno, Housing Element Program 1-I)

Model Ordinances/Useful Sources:

- California Housing Partnership Corporation, “Local Preservation Strategies”:
<http://chpc.net/dnld/LocalPrezStrat012512.pdf>
- City of South San Francisco, [Housing Element](#) Policy 3-2, 3-3
- City of San Bruno, [Housing Element](#) Program 1-1

Preservation of Mobile Home Park Housing

Summary and Benefits:

Mobile home parks are a hybrid of rental housing and ownership housing; in most parks, residents own their homes and rent the spaces where the homes are located. Mobile home parks represent one of the few remaining sources of unsubsidized affordable housing in California, and they also provide opportunities for homeownership to individuals and families who might not be able to afford other housing purchase options.

As the economy continues to rebound and development picks up, mobile home parks are particularly at risk for closure. Park owners, eager to profit off of rising land costs, seek to close parks so that the land can be sold and converted to other uses. Current examples from Santa Clara County include Buena Vista Mobile Home Park in Palo Alto¹ and Winchester Ranch Mobile Home Park in San Jose². In both cases, owners have indicated their intention to close the parks and sell the land to real estate development companies who, in turn, will construct luxury apartments in their place.

Displacement of mobile home park residents due to rent increases, eviction, or closure of the park can have very serious consequences for the park residents and the community. Despite the terminology, mobile homes are generally not mobile—it is difficult to move a mobile home once it is installed in a park, and older mobile homes generally cannot be moved. As such, if a mobile home park resident is evicted, or if her park closes, she is likely to lose her investment in the mobile home in addition to losing the right to continue living in her community.

Pursuant to Government Code section 65583(a), which requires cities to analyze their existing housing stock, cities should do an assessment of their existing mobile home parks and identify mobile home parks that are at risk of closure during the planning period. Government Code section 65583 (c)(4), which requires housing elements to include programs to preserve and improve the jurisdiction's existing affordable housing stock, requires jurisdictions to develop and implement programs to prevent the conversion or closure of mobile home parks.

¹ See, e.g., <http://www.npr.org/2013/10/15/227807022/silicon-valley-trailer-park-residents-fight-to-stay>

² See, e.g., http://www.mercurynews.com/opinion/ci_24927008/mobile-home-parks-san-jose-needs-retain-this.

Potential Policies:

Every city that has one or more mobile home parks should have the following types of local policies to preserve this important source of affordable housing:

- **Mobile home park rent control/rent stabilization protections**—the California Mobile Home Residency law provides mobile home park residents with certain protections above those afforded other tenants under California law, including protections against eviction without good cause. However, the state does not regulate rent increases by mobile home parks. Cities can and do impose local mobile home park rent control regulations—over 100 cities in California have rent control or rent stabilization for mobile home parks. Typical ordinances limit rent increases

to in-place residents to a certain percentage, although some may provide a procedure for larger increases where a park owner is seeking to recoup expenses of capital improvements to the property.

- **A stand-alone zoning category for mobile home parks**—zoning that makes mobile home parks the sole allowable by-right use for a particular parcel or area creates extra protection against the conversion or closure of mobile home parks to other uses.
- **An ordinance regulating the conversion of mobile home parks to cooperative/condominium ownership**—subdivision of mobile home parks to convert to resident ownership (similar to condominiums) is an increasingly common phenomenon. While some conversions may be initiated by residents as a means of preserving the park from sale or closure, others are initiated by the owner against the majority of residents' wishes. SB 510, passed in 2013, makes clear that local governments have the authority to block such conversions where they are opposed by park's residents. Cities should have local ordinances governing the subdivision of mobile home parks, and these ordinances should specify that the city will deny approval of the subdivision of the park where it has not been demonstrated that a majority of park residents support the subdivision.
- **An ordinance regulating mobile home park closures**—cities may place conditions on mobile home park owners' ability to close the park, including requiring substantial relocation benefits and assistance to park residents who are facing displacement. Every city that has a mobile home park or parks should have an ordinance that has strong protections for mobile home park residents, including requirements that a park owner who is seeking to close the park must provide financial and logistical assistance that will allow residents to access homeownership opportunities that are as good as or better than the housing that they are being forced to leave. The ordinance should take into consideration community amenities like schools, access to public transit, parks, jobs, and infrastructure. The ordinance should also lay out a clear process and procedure for how the city will determine whether or not to approve a park closure, and the process should be protective of residents' rights.

Cities that do not have one or more of these policies should incorporate programs for adoption of such policies into their housing elements.

Additionally, if a city has identified a mobile home park that is at risk of closure during the planning period, the housing element should include concrete programs for assisting in the preservation of that park. Cities may consider helping to facilitate a resident purchase of the park (if the residents are amenable), helping to facilitate a non-profit purchase of the park, and/or using city funds (e.g., CDBG) to help preserve the park.

Model Ordinances/Useful Sources:

- HCD's Building Blocks website has a sample housing element program here: http://www.hcd.ca.gov/hpd/housing_element2/PRO_conserve.php
- Sample Ordinances:
 - City of Sunnyvale Conversion Ordinance
<http://sunnyvale.ca.gov/Portals/0/Sunnyvale/CDD/Housing/Mobile%20Home%20Parks/2983-12.pdf>
 - Santa Cruz County,

- § Conversion Ordinance: <http://www.codepublishing.com/ca/santacruzcounty/html/SantaCruzCounty13/SantaCruzCounty1330.html>
 - § Rent Ordinance: <http://www.codepublishing.com/ca/santacruzcounty/html/SantaCruzCounty13/SantaCruzCounty1332.html>
- City of San Jose Mobile Home Rent Ordinance: <http://www.sanjoseca.gov/DocumentCenter/View/2096>
- City of Goleta Rent Control Ordinance: <http://qcode.us/codes/goleta/> (Ch. 8.14)
- City of Escondido Rent Control Ordinance: <http://www.escondido.org/Data/Sites/1/media/pdfs/MobilehomeRentControlArticle5.pdf>
- Resources for helpful input on policy options:
 - California Housing and Community Development Department (HCD), Housing Elements and Regional Housing Need Allocation, Link: <http://www.hcd.ca.gov/hpd/hrc/plan/he/>
 - Local legal services programs:
 - Residents' association as mobile home parks:
 - Golden State Manufactured-Home Owners League (GSMOL) <http://www.gsmol.org/>

RDA protections – Continue compliance with RDA protection

Summary and Benefits:

Although redevelopment agencies were dissolved in early 2012, most of the State Community Redevelopment Law was not repealed. Of particular importance is making sure that existing redevelopment-assisted housing remains in compliance with long-term restrictions on rents and tenant incomes. Some advocates have argued that obligations for affordable housing production and provision of replacement housing are also still in effect.

Potential Policies:

- Housing elements should describe policies and procedures for ongoing monitoring of redevelopment-assisted units
- Noticing rules for eviction – 90 day vs. 30 day
- Continue to require one-for-one housing replacement in redevelopment areas, with displaced households having first priority for occupancy in replacement units and new affordable units.

Model Ordinances/Useful Sources:

- California Health & Safety Code § 33410 et seq. governing Redevelopment Agency relocation assistance, Link: <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=33001-34000&file=33410-33418>
- City of Mountain View, Tenant Relocation Assistance: https://library.municode.com/HTML/16508/level3/PTIITHCO_CH36ZO_ARTIXTEREAS.html
- Cornerstone Partnerships, Strengths, Challenges & Opportunities: An Assessment of Affordable Homeownership Programs in San Mateo County, Link: <http://affordableownership.org/publications/smc-assessment/>

Relocation Benefits, Replacement Housing, and First Right of Return

Summary and Benefits:

Projects assisted with Federal and State funds are subject to requirements to provide relocation assistance to households displaced by those projects. And lower income housing units removed from the supply by such projects generally have to be replaced with new units that are comparable in size and affordability. Similar requirements also applied to redevelopment projects. However, privately financed development projects are often exempt from such requirements. As PDAs are developed with higher density housing, there is a risk that existing housing occupied by lower income households will be demolished and the tenants displaced.

Relocation benefits ensure that displaced households are able to find comparable housing that they can afford. One-for-one replacement ensures that new development doesn't come at the expense of the affordable housing supply.

Potential Policies:

- Require relocation benefits at the same level as required by the Uniform Relocation Act for households displaced by new housing development, particularly in PDAs. These requirements should apply equally to publicly financed projects and private projects.
- Require that when units affordable to lower income households are removed from the supply, they must be replaced with comparable units on a one-for-one basis, within 3-4 years of demolition.
- Provide displaced tenants with the first right to return to replacement housing units and to affordable housing units in PDAs.

Model Ordinances/Useful Sources:

- California Health & Safety Code § 33410 et seq. governing Redevelopment Agency relocation assistance, Link: <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=33001-34000&file=33410-33418>
- California Uniform Relocation Act, Government Code § 7260 et seq., Link: <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=07001-08000&file=7260-7277>

Rent stabilization

Summary and Benefits:

Deed restricted affordable housing properties offer protections from market vacillations and provide stability for families. In contrast, market-rate units fluctuate with changes in the housing market. With the Bay Area housing market bouncing back, rent increases have exceeded 20% per year in some municipalities. These rapid rent increases have made homes that were previously affordable to lower-income families and households on a fixed income too expensive.

Rent stabilization ordinances limit the amount that rents are allowed to increase as market values increase. Landlords continue to obtain ever higher returns on their rental properties while tenants have the certainty that their rents will not increase more than a certain amount each year. Once a tenant moves out vacancy decontrol takes effect, that is, rents “reset” to market rate values for new occupants. While the Costa-Hawkins Act of 1995 limits the use of rent stabilization for new construction, these rules can apply to units built prior to February 1, 1995.

Below are a few examples of the diverse approaches to rent stabilization undertaken by Bay Area jurisdictions:

Jurisdiction	Applicability	Maximum Allowable Rent Increase
East Palo Alto	Most Rental Properties	80% of the increase in the Consumer Price Index
Hayward	All rental properties	5% annual increase
Los Gatos	Properties with three or more rental units	Cannot exceed annual increase of 5% or 70% of the increase in the Consumer Price Index
San Rafael	Mobile Homes	75% of the increase in the Consumer Price Index
San Jose	Applies to triplex or larger units built before 1979. Does not apply to condominiums, single family homes, or properties paid by federal subsidies.	8% annual increase If rent is increasing for first time in 24 months limited to 21%

Potential Policies:

- Consider implementing controls on the rate of rent increases - note the distinction between rent *control* and rent *stabilization*. Rent control generally applies to setting the price of rent, while rent stabilization speaks to the rate of rent increase. New York City has [both](#).
- Consider implementation of Just Cause provision for tenant evictions

Model Ordinances/Useful Sources:

- City of East Palo Alto, link: <http://www.ci.east-palo-alto.ca.us/index.aspx?NID=469>
- City of Hayward Rent Stabilization Ordinance, link: <http://www.echofairhousing.org/images/ResidentialRentOrdinance-1.pdf>
- Town of Los Gatos, link <http://www.losgatosca.gov/faq.aspx?tid=31>
- San Rafael municipal code, link: <http://library.municode.com/index.aspx?clientId=16610&stateId=5&stateName=California>
- City of Berkeley Guide to Rent Control, link: http://www.ci.berkeley.ca.us/Rent_Stabilization_Board/Home/Guide_to_Rent_Control.aspx
- San Jose, link: <http://www.sanjoseca.gov/index.aspx?NID=2313>

Housing Overlay Zone (HOZ)

Summary and Benefits:

Using a “carrot,” rather than a “stick,” approach to encourage the creation of additional affordable housing, Housing Overlay Zones (HOZ) provide a flexible tool that sits on top of conventional zoning designations. These areas offer developers incentives to provide the community with specific amenities and community benefits in exchange for specific concessions by the city. On sites where land is not zoned for residential use but a city would like to see affordable housing built, a housing overlay district may eliminate the time consuming process of amending a general plan to construct such housing.

Public Advocates, a Bay Area law firm specializing in social justice issues, points out:

To achieve these goals, HOZ policies are centered around four basic parameters that can be customized to best fit local needs:

1. Geographic scope of applicability;
2. Baseline affordability qualifications for developments to access HOZ incentives;
3. Incentives given to qualified developments; and
4. The extent of exemptions from discretionary project-level approvals.

Determining the most effective balance of these factors will depend on work by local communities; however, in general, more effective HOZs will have broad geographic applicability including in lower-density or commercial zones, meaningful affordability qualifications, valuable incentives, and reliable exemptions from discretionary approvals.

Potential Policies:

- Consider the implementation of a Housing Overlay Zone over locally designated Priority Development Areas (PDAs), and transit-accessible areas, to incentivize affordable housing inclusion in areas close to amenities and transit alternatives.
- Among the potential incentives it could include:
 - Enhanced density bonuses - possibly to encourage [parcel assembly](#) as well
 - Reduced parking ratios
 - Expedited permit processing
 - Increased allowable heights
 - By-right zoning or administrative approval of projects
 - In-lieu fees
 - Impact fee waivers

Model Ordinances/Useful Sources:

- **City of Menlo Park**, link: [http://www.menlopark.org/departments/pln/he/amendments/993 HE Affordable Housing Overlay.pdf](http://www.menlopark.org/departments/pln/he/amendments/993_HE_Affordable_Housing_Overlay.pdf), <http://www.codepublishing.com/CA/menlopark/?MenloPark16/MenloPark1698.html>
- **City of Alameda**, link: http://alameda.granicus.com/Viewer.php?meta_id=37217&view=&showpdf=1
- **King County, Washington**, link: <http://www.kingcounty.gov/socialservices/Housing/ServicesAndPrograms/Programs/HousingDe>

[velopment/Incentives.aspx](#)

- **Orange County**, Affordable housing incentive withing commercially zoned properties, Link: http://library.municode.com/HTML/11378/level3/TIT7LAUSBURE_DIV9PL_ART2THCOZO_CO.html#TIT7LAUSBURE_DIV9PL_ART2THCOZOCO_S7-9-148.1PUIN
- **Public Advocates**, *Factsheet: Housing Overlay Zones*, http://www.publicadvocates.org/sites/default/files/library/affordable_housing_overlay_zone_fact_sheet_7-27-10.pdf

Incentive Zoning/Density Bonus and Public Benefit Zoning

Summary and Benefits:

Incentive Zoning/Density Bonus and Public Benefit Zoning are two “market-based strategies” that confer property rights (such as additional density) to a developer in exchange for public benefits to the community. Incentive Zoning, also known as “Density Bonus,” grants developers the right to build additional space in exchange for providing community amenities. This will work if the developer calculates that the value of the incentive provided is greater than the cost of providing the amenity. It is, therefore, voluntary. In addition to higher densities, other incentives commonly include reduced parking or modifications to height and setback requirements. Benefits range from affordable housing to accessible roof gardens, ground level public plazas, public art, miniparks and other desired amenities.

Public benefit zoning (PBZ) – also known as Land Value Recapture - is based on the premise that land use changes and enhancement enacted by a public agency contribute to increased real estate values. It is reasonable to expect that if a private landowner benefits from public action that benefits are extended towards the community as well.. In addition to the value created by the upzoning for the developer (as under incentive zoning) additional value is extracted from the landowner and dedicated to community benefits.

Both PBZ and Incentive Zoning can be based on negotiations, adjudicative and discretionary approvals, and ministerial entitlement based on compliance determination. But for PBZ, development agreements – in the case of significant developments - and areawide application, as in specific plans, work best. The tool of “tiers” of additional density/height has been utilized, with additional requirements for each additional tier. The benefits for PBZ are very similar to those of incentive zoning. In both cases, these benefits are in addition to existing Development Impact Fees, Inclusionary Housing, and Commercial Linkage Fees.

Potential Policies:

- For localities with Inclusionary Housing and/or Commercial Linkage Fees, both mechanisms can lead to additional units or fees required over existing regulations, either on a case-by-case basis or on the basis of a plan.
- For localities without, PBZ can lessen political opposition to Inclusionary Housing and/or Commercial Linkage Fees by tying those programs to increased densities and plan changes that increase the value of the land.

Model Ordinances/Useful Sources:

- Nico Calavita & Alan Mallach. 2009. Inclusionary Housing, Incentives and Land Value Recapture,” in *Land Lines*, January 2009 (Available in the Lincoln Institute of Land Policy Website)
- Dyett & Bathia. 2012. “Santa Monica Zoning Ordinance Update. Community Benefits and Incentives: Issues, Options, and Case Studies;” Prepared for the City of Santa Monica, August 2012.
- Patrick J Rohan & Eric Damian Kelly. 2013, *Incentive & Bonus Zoning*. Matthew Bender & Co Inc.
- <http://affordableownership.org/events/webinar-12613-using-upzoning-to-increase-affordability/>
It includes a presentation on the differences and similarities between Incentive Zoning and LVR

Additionally, a White Paper on the Theory, Economics and Practice of Land Value Recapture is being finalized for publication in March 2014. The paper, authored by Nico Calavita and Marian Wolfe, is being prepared for the East Bay Housing Organizations and the Metropolitan Transportation Commission.

Inclusionary Housing

Summary and Benefits:

With the emphasis on Priority Development Areas under SB 375, the difficulty of eliciting any appreciable “natural affordability” in these targeted growth locations increases substantially. Dedicating a percentage of housing units produced to deed-restricted affordability ensures that lower income households have access to transit and helps increase transit ridership, since lower income households are more likely to use transit. The ability of jurisdictions to mandate inclusionary housing was severely restricted in 2009 with the California Appellate Court ruling *Palmer v. City of Los Angeles*, which determined that inclusionary requirements on rental units conflicted with the 1995 Costa-Hawkins Act, which regulates rent control. Ownership units are not constrained. The recent surge in construction of for-rent units, many of which, are being approved with “condo maps,” may be an opportunity to ensure a degree of affordability should they [convert](#) to ownership units.

From Nonprofit Housing Association of Northern California’s (NPH) *Inclusionary Housing Advocacy Toolkit*:

- [Inclusionary Housing] creates housing choices in communities: IH policies ensure that every community provides homes affordable to a range of income levels. By providing these housing options, a community’s labor force—hospital workers, retail clerks, and childcare workers—can afford to live in the communities they serve. Hardworking families can have access to good schools and safe neighborhoods. Moreover, typical NIMBY opposition is often mitigated by creating both market-rate and affordable homes in a single development.
- [Inclusionary Housing] creates new affordable homes without needing new government funding: IH policies have broad appeal to local governments because these policies help provide affordable housing needs with little extra cost to governments. Furthermore, IH policies complement other affordable housing programs, like bond financing, rent and development subsidy programs, and tax credits.
- [Inclusionary Housing] levels playing field for all developers: By adopting IH policies, local governments remove uncertainty from the development process. It gives a clear message to landowners and developers so that all can make informed financial decisions before building.

Potential Policies:

- City adopts an inclusionary housing ordinance for ownership units with no less than 20% of affordable units in new construction. Tiered income policies should also be considered with a smaller percentage of affordable units required for deeper affordability, or a range of affordability levels that equate to 20%. Affordability should be maintained for a minimum of 55 years with an ideal of permanent affordability. Consider inclusion of an in-lieu fee sufficient to exceed the number of units that would have been built on-site. Consider affordable units specially set aside for seniors.
- City adopts a [development impact fee](#) that includes an option to build units in-lieu of paying the fee.
- City leverages Land Value Recapture concepts as part of a larger Community Benefits Program within Priority Development Areas or other areas targeted for growth.

Model Ordinances/Useful Sources:

- Nonprofit Housing Association of Northern California (NPH), *Inclusionary Housing Advocacy Toolkit*, http://www.nonprofithousing.org/pdf_toolkits/InclusionaryTool.pdf

- California Rural Housing Association, *Inclusionary Housing Database*: http://www.calruralhousing.org/?page_id=110
- Institute for Local Government (ILG), *California Inclusionary Housing Reader*: http://www.ca-ilg.org/sites/main/files/file-attachments/resources_California_Inclusionary_Housing_Reader.pdf
- Nonprofit Housing Association of Northern California (NPH), *Protecting Inclusionary Housing Requirements*, December 5, 2013, Link: <http://www.21elements.com/Download-document/603-Protecting-Inclusionary-Requirements.html>
- Goldfarb and Lipman Attorneys, *Presentation: Inclusionary Housing - Current Legal Issues*, January 23, 2014, Link: <http://www.21elements.com/Download-document/653-The-Current-State-of-Inclusionary-Housing-1/22/13.html>
- San Mateo County 21 Elements, Development Impact Fee 21 Jurisdiction Grand Nexus Study, Link: *To be added in 2014 to www.21elements.com.*

Source of Income Ordinance

Summary and Benefits:

Since the 2009 ruling on *Palmer v. City of Los Angeles*, which restricted local jurisdictions' ability to promote mixed-income housing, there have been few avenues available to ensure low-income households have the ability to live in to high opportunity areas. Federal rent subsidy programs like the federal Housing Choice Voucher program (Section 8) offer the ability for low income residents to pay market rate rents and more effectively compete for housing. The advantages of vouchers over project-based housing assistance depend on the ability of voucher recipients to locate a landlord who will accept the voucher. Some landlords wish to avoid the administrative burden associated with the voucher program. Other landlords perceive voucher recipients to be undesirable tenants and/or fear their other tenants would object to voucher recipients as neighbors.

Under California law, it is unlawful for a landlord, managing agent, real estate broker, or salesperson to discriminate against a person or harass a person because of the person's race, color, religion, sex (including pregnancy, childbirth or medical conditions related to them, as well as gender and perception of gender), sexual orientation, marital status, national origin, ancestry, familial status, or disability. Source of Income anti-discrimination laws make it illegal for landlords to discriminate against voucher recipients solely on the basis of their having a voucher.

Potential Policies:

- Consider an ordinance similar to East Palo Alto's Source of Income Ordinance EPAMC § 14.16.010.A.4 which prohibiting Income-Based Rental Housing Discrimination.
- *For further consideration* - Consider requirement for the inclusion of Section 8 Housing Choice Voucher Program tenants in new developments within the plan area where a community benefit agreement or development agreement is negotiated.

Model Ordinances/Useful Sources:

- City of East Palo Alto, link: [HERE](#)
- Poverty and Race Research Action Council, Appendix B:State, Local, and Federal Laws Barring Source-of-Income Discrimination, link: <http://www.prrac.org/pdf/AppendixB.pdf>
- Fair Housing Law Project, *Housing Discrimination Based on Income*, link: <http://www.lawfoundation.org/repository/Income.pdf>
- U.S. Department of Housing, *The Impact of Source of Income Laws on Voucher Utilization and Locational Outcomes*, http://www.huduser.org/publications/pdf/Freeman_ImpactLaws_AssistedHousingRCR06.pdf
- 21 Elements Policy Best Practices: [HERE](#)

Commercial Linkage Fee

Summary and Benefits:

A portion of jobs created by new commercial development – hotel, retail, office, etc.- are low-paying and the new employees cannot afford market-rate housing. With commercial linkage fees – also known as job-housing linkage fees - developers are expected to ameliorate some of the housing impacts generated by such projects. This impact is measured through a Job-Housing Nexus Analysis that shows the connection between the construction of new commercial buildings, employment, and the need for affordable housing. They are usually performed by consulting firms that have specialized in this type of analysis.

Methodologies vary, but in most cases the analysis begins with an estimation of the number of employees for a prototypical 100,000 sq.ft. building and ends with the cost per-square foot for that building to provide housing for those employees who would live in that locality but could not afford to live there. Consultants routinely recommend fee levels much lower than the maximum. Given that, depending on the land use, there are different concentrations of employees per area of buildings, fee levels vary, with office usually the highest, and warehousing the lowest. Some localities, heavily impacted by specific types of development, might exact fee from only those uses, as is the cases in some Silicon Valley cities targeting the high tech industry.

Commercial linkage fees are adopted at the local level, and as such they reflect the diversity of each locality's economic, political and cultural traits. Linkage fees can vary by development type, fee level, exemptions, options/thresholds, terms of payment, and results. About twenty cities in California have enacted commercial linkage fees. Compared to the number of localities with inclusionary housing programs, the number of localities with commercial linkage fees is rather low. A possible explanation is fear of discouraging economic growth. However, reasonable fees enacted in areas experiencing high levels of economic growth and strong demand for commercial space should not negatively affect the rate of commercial development. This is especially true if one considers that the additional costs to developers will bring about a readjustment of land prices in a period of a few years, i.e., the landowner will pay the additional cost of development through a reduction of the price of land. (See below, Jobs-Housing Nexus Study Prepared for the City of San Diego by Keyser Marston associates, Inc. August 2013, page 62).

Potential Policies:

- Some cities in the Bay Area already have commercial linkage fees. Those cities experiencing high levels of growth should consider increasing their existing fees. In some cases there are no provisions for inflation adjustment, as in Berkeley. The City of San Diego passed legislation last year to increase their fees to reflect the failure in adjusting their fees since 1990, the date of adoption of their program. Finally, cities without commercial linkage fees but experiencing high rates of commercial growth should consider adopting a commercial linkage fee program.

Model Ordinances/Useful Sources:

- City of Menlo Park Commercial Development Fee - Zoning Code Chapter 16.96.030, Link: <http://www.codepublishing.com/CA/menloPark/?MenloPark16/MenloPark1696.html>
- City of Oakland Jobs/Housing Linkage Fee - Building Code Chapter 15.68. Link: http://library.municode.com/HTML/16308/level2/TIT15BUCO_CH15.68JOHOIMFEAFHOTR_FU.html#TOPTITLE

- City of Oakland Jobs/Housing Linkage Fee Nexus Study and related reports. Link: <http://www2.oaklandnet.com/Government/o/hcd/s/Data/DOWD008692#linkage>
- Jobs- Housing Nexus Study Prepared for the City of San Diego by Keyser Marston associates, Inc. August 2013:
[http://sdhc.org/uploadedFiles/Real_Estate/Best_Practices_Task_Force/SDHC%20Job%20Housing%20Nexus%20Study%202013\(1\).pdf](http://sdhc.org/uploadedFiles/Real_Estate/Best_Practices_Task_Force/SDHC%20Job%20Housing%20Nexus%20Study%202013(1).pdf)
- City of San Jose, Housing Needs and Strategy Study Session Follow-up Administrative Report, Link: <http://sanjoseca.gov/DocumentCenter/View/12862>
- San Mateo County 21 Elements, Development Impact Fee 21 Jurisdiction Grand Nexus Study, Link: *To be added in 2014 to www.21elements.com.*

Housing Impact Fee

Summary and Benefits:

In the wake of the Palmer decision, which limits the ability of cities to apply inclusionary zoning requirements to rental housing unless some form of financial assistance is provided, many cities have turned instead to the use of development impact fees charged on new, market-rate housing development. Known as “Housing Impact Fees”, these fees are based on an assessment of the extent to which the development of new market-rate housing generates additional demand for affordable housing.

As is the case with Commercial Linkage Fees, adoption of a Housing Impact Fee requires the preparation of a nexus study. Typically, this study will assess the extent to which new market-rate development attracts higher income households who will spend more on retail and services. That increased spending creates new jobs, attracting new workers to live in the city, some of whom will be lower income and require affordable housing..

A financial feasibility study is also recommended to ensure that any Housing Impact doesn't render development infeasible.

Potential Policies:

- Commit to conducting a nexus study and financial feasibility study for a Housing Impact Fee to assess new market rate development for the increased demand that it creates for affordable housing.
- Adopt a Housing Impact Fee, with funds dedicated to an affordable housing trust fund to be used to preserve and expand the supply of affordable housing.

Model Ordinances/Useful Sources:

- City of San Carlos Housing Impact Fee, Affordable Housing Program - Zoning Code Chapter 18.16, Link: <http://www.codepublishing.com/ca/SanCarlos/html/SanCarlos18/SanCarlos1816.html#18.16>, Nexus Study and Fee Analysis: <http://www.21elements.com/Download-document/492-San-Carlos-Nexus-Study-Fee-Analysis.html>
- City of Fremont Housing Impact Fee, Affordable Housing - Establishment of Fees - Zoning Code 18.155.090, Link: <http://www.codepublishing.com/ca/fremont/html/Fremont18/Fremont18155.html#18.155.090>
- City of Berkeley Housing Impact Fee Nexus Study, Link: http://www.ci.berkeley.ca.us/uploadedFiles/Clerk/Level_3_-_City_Council/2011/01Jan/2011-01-25_Item_14a_Affordable_Housing_Impact_Fee.pdf
- San Luis Obispo County Housing Impact Fee Nexus Study, Link: <http://agenda.slocounty.ca.gov/agenda/sanluisobispo/1612/QXR0YWNobWVudCBCIC0gUmVzaWRlbnRpYWwgSG91c2luZyBJbXBhY3QgRmVlIE5leHVzIFN0dWR5X0EucGRm/12/n/9978.doc>
- San Mateo County 21 Elements, Development Impact Fee 21 Jurisdiction Grand Nexus Study, Link: *To be added in 2014 to www.21elements.com.*

Rededication of “Boomerang Funds” to Affordable Housing

Summary and Benefits:

With the dissolution of Redevelopment Agencies (RDA), the State of California deprived local jurisdictions of their largest and most significant source of local funding for affordable homes. Across the state redevelopment was responsible for over \$1 billion in direct funding for affordable housing with its 20% tax increment set-aside. These local funds often served as “first in” money that could be leveraged to acquire other sources of funding. Some Bay Area affordable housing developers report that over 75% of their projects in recent years involved some level of RDA funding. A portion of those former tax increment funds come back to local jurisdictions as both a one-time lump sum from their former Low and Moderate Income Housing Fund (LMIHF) and an ongoing bump to their property tax. Counties receive such funds from each former redevelopment agency within the county. These have been referred to as “Boomerang Funds.”

Potential Policies:

- Consider dedication of 100% of the one-time lump sum distribution of former Low and Moderate Income Housing Fund money back into funding for affordable housing.
- Dedication of at least 20% of the ongoing year-over-year tax-increment distributions now realized as increased property tax distributions back into funding for affordable housing.

Model Ordinances/Useful Sources:

- County of San Mateo, Administrative Report, *Use of Unrestricted General Funds Derived from One-Time Distribution of Housing Trust Funds of Former Redevelopment Agencies*, Link: <http://sanmateo.siretechnologies.com/sirepub/cache/2/e43oowhzorkxrqv2mzj3sagw/2976401302014051731203.PDF>
- County of Santa Clara, Resolution, *Resolution establishing a policy regarding the use of new revenues from the dissolution of redevelopment agencies*, Link: http://sccgov.iqm2.com/Citizens/Detail_LegiFile.aspx?ID=68014
- City of Oakland, Ordinance establishing set aside of boomerang funds. Link: <https://oakland.legistar.com/View.ashx?M=F&ID=2644368&GUID=D42A5E35-CC52-4D92-802B-ADE4629D4CE2>

Affordable Housing Sites:

Summary and Benefits:

A key part of every Housing Element is the identification of adequate sites to serve a range of incomes, including households at very low and low income levels. Since both Plan Bay Area and the RHNA site the majority of new growth within Priority Development Areas, local housing elements should identify affordable housing opportunity sites within PDAs. Also, while the law requires only that the sites be adequately zoned, for these sites to become affordable housing sites, they must be competitive for affordable housing funding, particularly Low Income Housing Tax Credits.

Potential Policies:

- Site the majority of affordable housing parcels entirely within local Priority Development Areas or Transit Priority Areas/PDA-like places
- Site affordable housing locations to maximize Low Income Housing Tax Credit (LIHTC) potential. Jurisdictions are encouraged to work with affordable housing developers active in their area to analyze whether identified sites would be competitive for tax credits.

Model Ordinances/Useful Sources:

- [California Tax Credit Allocation Committee](http://www.treasurer.ca.gov/ctcac/programreg/2014/20140129/regulations.pdf), Adopted Regulations (January 29, 2014) <http://www.treasurer.ca.gov/ctcac/programreg/2014/20140129/regulations.pdf> - Regulation Section 10325 - Application Selection Criteria
- ABAG GIS Catalog, Plan Bay Area Priority Development Areas, Link: <http://gis.abag.ca.gov/>
- San Mateo County 21 Elements, *LIHTC Fact Sheet*, Link: <http://www.21elements.com/Download-document/553-Low-Income-Housing-Tax-Credit-Fact-Sheet.html>

Priority Development Areas

Summary and Benefits:

Plan Bay Area - the regional land use and transportation plan designed to reduce greenhouse gas emissions by reducing vehicle miles traveled - identifies Priority Development Areas (PDAs) throughout the region where most growth is to be concentrated. These are areas close to transit stations or along major transit corridors. However, these PDAs were established voluntarily by cities and there are some areas well served by transit that have not been designated. In addition, it is up to localities to identify policies and establish plans for siting affordable housing in PDAs. Expanding PDAs to cover all “PDA-like” places and having strong policies for developing affordable housing in PDAs are critical for regional housing equity. Local housing elements should include such actions in their implementation program.

Potential Policies:

- Expand designated Priority Development Areas to additional locations that are transit accessible.
- Jurisdictions should identify specific policies that promote inclusion of affordable housing within PDAs

Model Ordinances/Useful Sources:

- ABAG, FOCUS: Priority Development Area, <http://www.bayareavision.org/initiatives/prioritydevelopmentareas.html>
- ABAG GIS Catalog, Plan Bay Area Priority Development Areas, Link: <http://gis.abag.ca.gov/>
- ABAG, *Inner Bay Area Corridors PDA Implementation Memo*, January 7, 2014, Link: <http://www.abag.ca.gov/abag/events/agendas/e011614a-Item%202008,%20Inner%20Bay%20Area%20PDA%20Update.pdf>

Parcel Assembly

Summary and Benefits:

Infill development is often difficult due to the presence of small, oddly-shaped parcels in older parts of cities and towns. Generally, to build sites that fit with the character of the neighborhood at densities that are economically feasible, developers assemble larger sites from smaller parcels. Parcel assembly can be problematic, however, as owners of the last parcel needed to assemble the whole site can exact significant financial concessions from developers in turn incentivizing all neighbors to be the last to sell. Jurisdictions have traditionally responded through the use of eminent domain, a highly unpopular and rarely invoked option.

Graduated density zoning provides jurisdictions with another tool to assemble larger sites from smaller parcels. Jurisdictions are able to keep lower-density zoning for sites less than a given size but allow higher density development on sites that exceed a certain “trigger” size. Owners are motivated to sell if the values of their assembled parcels at higher densities greatly exceed the current value of their parcel alone. All owners have to sell in order to achieve economic gains from their parcels as the density bonus is only triggered when the site reaches a certain minimum size. As a result there is an incentive to not be the last one to sell, as the last owner could be left with an oddly shaped parcel that would be difficult if not impossible to assemble into a larger site.

Potential Policies:

Jurisdictions can choose to institute an “abrupt” or “sliding” scale of graduated density zoning or even downzone in certain instances:

- Abrupt: If an assembled site achieves a minimum size then higher densities are triggered.
- Sliding: A site’s density is increased with each subsequent increase in size up to a maximum density.
- Graduated density does not require upzoning. A neighborhood that is zoned at higher densities (i.e. 50 du/acre) but is holding out for higher prices could also be downzoned to allow the original density (50 du/acre) only on sites larger than a minimum size.

Table 1 Abrupt vs. Sliding Graduated Density Zoning :

Taken from Donald Shoup “Graduated Density Zoning” Journal of Planning Education and Research

	Abrupt		Sliding	
Area (Acres)	Density (units/acre)	Units	Density (units/acre)	Units
0.2	5	1	14	3
0.4	5	2	23	9
0.6	5	3	32	19
0.8	5	4	41	33

1.0	50	50	50	50
1.2	50	60	50	60

For either option the aim is to create a situation where the base density is much lower than developers want while offering a substantial density bonus for larger sites. The “abrupt” option creates a stronger incentive for the last owner to sell as the density bonus is not realized without the last parcel. By gradually increasing density, the “sliding” option creates stronger incentives for the initial owners to sell and puts less pressure on the owner of the last parcel.

Model Ordinances/Useful Sources:

- Shoup, Donald. "Graduated Density." *Journal of Planning Education and Research*. (2008): n. page. Web. 10 Dec. 2013. <<http://its.ucla.edu/shoup/graduateddensityzoning.pdf>>.
- City of San Bruno’s 2009 General Plan allows for higher FARs on lots bigger than 20,000 sq ft, see section 2-8 “Multi-use Residential Focus”:
http://www.sanbruno.ca.gov/comdev_images/planning/General%20Plan/Approved/SBGP_CompleteGP.pdf
- City of Glendale provides a 25% density bonus in some neighborhoods:
http://www.ci.glendale.ca.us/gmc/Zoning_Code/Chapter30-36.pdf
- Simi Valley provides a graduated density bonus in its Kadota Fig neighborhood on sites larger than 13 acres: <http://its.ucla.edu/shoup/graduateddensityzoning.pdf>

Parking

Summary and Benefits:

Parking policies impact the design, location, and financial viability of new developments. The costs of providing parking can affect whether a project is viable and the level of affordability that can be achieved, as providing a single parking space ranges from \$5,000 per surface parking spot to as much as \$60,000 per each underground parking space.

Also, even though such spaces come at great cost, they may not be fully utilized—particularly in affordable housing developments. Parking requirements have a disproportionate impact on housing for low income households because low income households consistently own fewer vehicles than their higher income counterparts and are more burdened by the extra expenses. In a study of affordable housing and parking needs, the City of San Diego found that residents of affordable housing owned cars at half the rate of residents of market rate rental housing. In addition to reducing housing costs, modifications to parking policies can encourage residents to own fewer cars, drive less, and increase use of transit, walking and biking which contributes to better health.

In the Bay Area, Priority Development Areas (PDAs) are an excellent location for affordable housing development. The proximity to quality transit warrants lower parking levels for new housing, which lowers per-unit developmental costs and allows for more housing for a given budget, while providing other less expensive modes of access for residents.

Potential Policies:

1. *Reduce or eliminate unnecessary parking requirements:* Eliminate requirements for additional parking for new development in downtowns and town centers, allowing customized approaches.
 - a. *Unbundle parking (residential and commercial):* Require the cost to own or lease a parking space to be unbundled from the price to rent or own a commercial or residential space. This increases housing affordability for households that do not use parking.
 - b. *Share parking:* Adopt policies to encourage or require shared parking between uses rather than reserved parking for specific users and tenants.
 - c. *Allow tandem parking* (when two spaces are located end to end) to count toward satisfying parking requirements.
 - d. *Consider parking maximums* for very transit-rich, walkable and congested areas to reduce local congestion and enhance the environment for walking and use of alternative modes.
2. *Promote alternative modes (with transit passes, car sharing, bike lanes, pedestrian amenities, etc.):* Incorporate requirements for free or discounted transit passes, carshare incentives, bicycle parking and pedestrian amenities in lieu of some parking.
3. *Coordinate prices for on-street and off-street parking:* Pricing parking reduces parking demand, ensures that end-users carry more of the cost, and promotes turnover. Coordination of pricing between on-street and off-street is essential to achieve parking management goals. Adopt a parking availability target: Set a goal that parking availability be maintained at around 15 percent through the use of pricing, time limits and adjustable rates/regulations, and allow parking staff to adjust prices to achieve this goal.
4. *Manage parking:* engage in active parking management to better utilize existing parking and use of revenues.
 - a. *Track parking utilization in buildings and the neighborhood:* This allows residents of buildings with less parking to park elsewhere in the neighborhood and enables buildings

- to be built with fewer parking spots than would normally be required.
- b. *Establish parking benefit districts:* Net revenue collected from parking pricing and permit revenues could be dedicated to funding community priorities within designated Parking Benefit Districts.
 - c. *Establish Transferable Parking Entitlements:* Jurisdictions could designate the number of parking spaces made available for a development as an “entitlement” that could be bought or sold if they are unused.
5. *Establish and publicize policies to require or encourage employers to offer alternative access for employees.* Transportation Demand Management refers to a range of policies and programs to reduce vehicle miles travelled (VMT) which, in turn, decrease the need for parking. Possible policies include carpool parking, parking pricing, flexible work schedules, and ridesharing. The Air District and MTC are developing a Bay Area Commuter Benefits Program to promote the use of alternative commute modes such as transit, ridesharing, biking and walking. The program would require employers with 50 or more full-time employees in the Bay Area to offer one of the benefits, see http://www.mtc.ca.gov/news/current_topics/10-13/cbp.htm

Model Ordinances/Useful Sources:

- MTC’s Parking Policies for Smart Growth: http://www.mtc.ca.gov/planning/smart_growth/parking/
- Parking Code Guidance: Case Studies and Model Provisions: http://www.mtc.ca.gov/planning/smart_growth/parking/6-12/Parking_Code_Guidance_June_2012.pdf
- Redwood City Article 30 Parking and Loading: <http://library.municode.com/HTML/16091/level1/ART30OREPALO.html#ART3>
- The city of Berkeley recently partnered with AC Transit and several regional agencies to provide free transit passes and expand access to car sharing in their downtown through their GoBerkeley program: <http://online.wsj.com/article/PR-CO-20130627-910529.html>
- San Francisco’s award winning SF Park program uses demand pricing and innovative payment schemes to encourage parking in underutilized areas: <http://sfpark.org/>
- For a study considering lower rates of auto ownership and affordable housing please see San Diego’s Affordable Housing and Parking study: <http://www.sandiego.gov/planning/programs/transportation/mobility/pdf/111231sdafhfinal.pdf>

Site and Building Regulations

Summary and Benefits:

Developers estimate that every month required for processing a development application adds at least 1 to 2 percent to the overall cost of a housing development. When development processing requires a year or more, the resulting impact on housing costs can be significant. In order to cut down development costs and facilitate the construction of multi-family affordable homes, localities can employ a number of policies to ease or streamline development requirements. These include an array of options such as fee reductions for affordable housing development, streamlined review processes, modifying building height restrictions, and allowing the payment of in-lieu fees to meet certain obligations such as open space or park land requirements.

Below are a few examples of approaches that Bay Area jurisdictions have taken to ease the developmental process:

Jurisdiction	Policy Approaches
City of Fremont	Developments with 5 or more units qualify for a density bonus if affordable housing is included. The city also provides developers with site identification assistance, marketing and tenant screening, modification of development standards, and streamlined processing of plans and permits.
City of Milpitas	Created the Midtown Specific Plan focusing on a 252 acre area that can accommodate up to 4900 housing units. The plan takes advantage of VTA and future BART rail stations in the area to increase housing choices and densities.
Redwood City	Adopted a Downtown Precise Plan that used extensive community input to create a streamlined permitting process to channel regional housing demand to their downtown. The plan provides developers with clear guidelines that, if followed, allows for certainty in permit processing times.

Potential Policies:

Streamlining the Approval Process:

- Provide clear and objective regulations and guidelines to prospective applicants so that proposed projects conform to local priorities and goals
- Consider “by right” approvals and form-based codes for designated uses
- Provide streamlined permitting review processes for affordable housing

Flexibility in Planning Requirements

- Encourage mixed-use zones: mixed-use zones create flexible investment opportunities for and locates infill housing in office or retail districts where it may be less controversial. It also has the added benefit of reducing development costs by sharing amenities and parking with other uses.

- Let infill developers meet open space and parkland requirements by paying “in-lieu” fees
- Maximize development potential through the removal of building height restrictions in designated Priority Development Areas
- Limit requirement for ground-floor retail to key nodes, and allow for residential uses on the ground floor in certain locations

Model Ordinances/Useful Sources:

- *A Place to Call Home: Housing in the San Francisco Bay Area*, link:
http://www.abag.ca.gov/planning/housingneeds/pdf/resources/A_Place_to_Call_Home_2007.pdf
- *Blueprint 2001: Housing Element Ideas and Solutions*, link:
<http://www.abag.ca.gov/planning/housingneeds/blueprint.html>
- City of Redwood City’s Downtown Precise Plan, link:
<http://www.redwoodcity.org/phed/planning/precise/FINAL-DTPP/NewDTPPDownload.htm>
- City of Fremont Density Bonus and Affordable Housing Incentives, link:
<http://www.codepublishing.com/ca/fremont//html/Fremont18/Fremont18165.html#18.165.090>
- City of Milpitas Midtown Specific Plan, link:
http://www.ci.milpitas.ca.gov/government/planning/plan_midtown_specific.asp

Universal Design Standards for Apartments

Summary and Benefits:

The goal of universal design is to make the built environment as accessible as possible to people of all ages and abilities without adaptation or specialized design. Universal design features come at little to no extra cost if incorporated in a project as it gets built while significantly reducing or eliminating the need to later retrofit the structure for accessibility.

The principles of universal design as defined by the Center for Universal Design are as follows:

- **Equitable use:** the design is useful and marketable to people with diverse abilities
- **Flexibility in use:** the design accommodates a wide range of individual preferences and abilities
- **Simple and intuitive use:** use of the design is easy to understand regardless of the user's experience, knowledge, language skills, or current concentration level
- **Perceptible information:** the design communicates necessary information effectively to the user, regardless of ambient conditions or the user's sensory abilities
- **Tolerance for error:** The design minimizes and the adverse consequences of unintended actions
- **Low physical effort:** The design can be used efficiently and comfortably with a minimum of fatigue
- **Size and space for approach and use:** Appropriate size and space is provided for approach, reach, manipulation and use regardless of user's body size, posture, or mobility

For residential properties universal design features could include:

- No-step entry
- Wider interior doors and hallways
- Audio & visual doorbell
- At least one bathroom or powder room on the primary entry level
- Hand-held adjustable shower head
- Kitchen on an accessible route of entry.

Potential Policies:

- The City of Dublin requires that all new construction of single family homes and apartment buildings in excess of 20 units, include certain universal design features to make properties as accessible as possible.

Model Ordinances/Useful Sources:

- City of Dublin, link: <http://www.codepublishing.com/ca/dublin/dublin07/Dublin0790.html>
- City of Dublin universal design checklist: <http://dublin.ca.gov/DocumentCenter/Home/View/59>
- HCD Model Universal Design Ordinance: http://www.hcd.ca.gov/codes/shl/3-Text-Universal_Design_Model_Ordinance.pdf
- Principles of Universal Design from the Center for Universal Design: http://www.ncsu.edu/ncsu/design/cud/pubs_p/docs/poster.pdf

Emergency Shelters and Homeless Persons (SB2)

Summary and Benefits: SB2 (Chapter 633, Statutes of 2007) clarifies and strengthens the housing element law by ensuring that local zoning encourages and facilitates emergency shelters. SB2 also limits the denial of emergency shelters and transitional and supportive housing under the Housing Accountability Act. SB2 planning and approval requirements include:

- identify at least one zone to permit emergency shelter by-right
- conduct need assessment for emergency shelter addressing both seasonal and year-round need
 - need may be reduced by the number of supportive housing units that are identified in the jurisdictions 10-year plan to end homelessness, provided that units are vacant or will be constructed during the planning period with funding identified
- demonstrate that transitional housing and supportive housing are permitted as a residential use and are subject to restrictions that apply to other residential units of the same type and in the same zone
- standards must be objective and promote the use for or encourage development/conversion to emergency shelter
- jurisdictions with existing ordinances for emergency shelter have flexibility in meeting zoning requirements or if they demonstrate that need for emergency shelter can be met in existing shelters or through a multi-jurisdictional agreement
- zones must include sufficient capacity to accommodate the need for emergency shelter
 - if existing zoning does not allow for zoning for emergency shelter by-right or if the identified sites have insufficient capacity to meet the need, the housing element must include a program to identify a specific zone(s) and amend the zoning code within year of adoption of the housing element

Potential Policies:

- Amend/adopt zoning ordinance that provides standards to ensure the development of emergency shelters. Standards permitted for regulation include:
 - Development standards common to the zoning district
 - Maximum number of beds
 - Off-street parking
 - Size and location of exterior/interior on-site waiting and client intake areas
 - Provision of on-site management
 - Length of stay
 - Lighting
 - Provision of security during hours of operation
 - Non-discretionary design standards
 - Proximity to other emergency shelters
 - Voluntary or incentive based standards

Model Ordinances/Useful Sources:

- Chapter 633, Statutes of 2007: http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0001-0050/sb_2_bill_20071013_chaptered.pdf
- HCD Memorandum on SB 2 Zoning for Emergency Shelters, Transitional housing, and

Supportive Housing (Updated April 10, 2013):

http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf

- San Mateo County 21 Elements, “Zoning in the Wake of SB2: Best Practices for Emergency, Transitional, and Supportive Housing” <http://www.21elements.com/Download-document/442-Zoning-in-the-Wake-of-SB-2-Best-Practices-for-Emergency-Supportive-and-Transitional-Housing.html>

Reasonable Accommodations (SB520 and SB812)

Summary and Benefits:

Consistent with state and federal law, housing elements should contain policies and programs to implement fair housing laws and to provide housing for persons with disabilities. Housing element law requires local jurisdictions to conduct a housing needs assessment for persons with disabilities. In recent years, the state has amended the housing element law to remove barriers to housing opportunities for persons with disabilities.

- SB520 (Chapter 671, Statutes of 2001) amended the housing element law by requiring local jurisdictions to:
 - analyze potential and actual constraints on the development, maintenance, and improvement of housing for persons with disabilities (i.e. land use policies, building codes/enforcement, fees, parking requirements, and local processing and permit procedures)
 - analyze local efforts to remove governmental constraints that present barriers to providing housing for persons with disabilities
 - adopt universal design elements in its building codes that address limited lifting, flexibility, mobility, and vision
 - identify/analyze whether it has a reasonable accommodation policy, procedure, or ordinance
 - provide programs to remove identified constraints or provide reasonable accommodations for housing designed for persons with disabilities
- SB812 (Chapter 507, Statutes of 2010) amended the housing element law by requiring local jurisdictions to:
 - as part of special housing needs analysis, include an evaluation of the special housing needs of persons with developmental disabilities
 - estimate the number of persons with developmental disabilities
 - assess housing need and availability of programs (i.e. shared housing, permanent supportive housing/programs)
 - identify potential funding sources designated for persons with developmental disabilities
 - develop and implement programs to meet housing needs for persons with developmental disabilities

Potential Policies:

- Amend zoning ordinance or adopt a reasonable accommodation ordinance that provides a procedure for requesting reasonable accommodation and flexibility in the application of zoning and land use regulations and procedures (See below ‘HCD Reasonable Accommodation Model Ordinance’)

Model Ordinances/Useful Sources:

- HCD Memorandum on SB 520 Analysis of Constraints on Development of Housing for Persons With Disabilities: http://www.hcd.ca.gov/hpd/hrc/plan/he/sb520_hpd.pdf
- HCD Memorandum on SB 812 Analysis of Special Housing Needs for Persons With Developmental Disabilities: <http://www.hcd.ca.gov/hpd/NoticeCoverLtrSB812.pdf>
- HCD “Constraints: Housing for Persons with Disabilities”

http://www.hcd.ca.gov/hpd/housing_element2/CON_disabilities.php

- HCD Reasonable Accommodation Model Ordinance
http://www.hcd.ca.gov/hpd/housing_element2/documents/MODEL_REASONABLE_ACCOMMODATION_ORDINANCE.pdf
- City of Santa Rosa, Reasonable Accommodation Ordinance:
http://www.hcd.ca.gov/hpd/housing_element2/documents/Reasonable_Accommodation_Ordinance_Santa_Rosa.pdf
- Mental Health Advocacy Services, Inc., “Fair Housing Reasonable Accommodation: A Guide to Assist Developers and Providers of Housing for People with Disabilities in California”
<http://www.mhas-la.org/DeveloperGuide3-9-05.pdf>

Second-Unit Law (AB1866)

Summary and Benefits: AB1866 amended the state’s second-unit law by requiring local governments with a local second-unit ordinance to ministerially consider second-unit applications without discretionary review or a hearing. Jurisdictions without a second-unit ordinance are required to ministerially consider second-unit application according to state standards. Second units approved ministerially are statutorily exempt from CEQA².

AB1866 also clarified existing housing element law to allow local governments to identify the realistic capacity of new second-unit development to meet its RHNA requirements.

Jurisdictions may count the realistic potential for new second units within the planning period considering the following:

- the number of second units developed in the previous planning period
- an estimate of potential increase due to policies, programs, and incentives that encourage the development of second units
- other relevant factors

Potential Policies:

- Adopt a second-unit ordinance that includes, in addition to elements required by state law, design/development standards, zones permitted for second units, permit procedures, and incentives that encourage the construction of second units
- Review existing second-unit ordinances for compliance to updated law and make necessary amendments
- Include incentives in second-unit ordinances such as:
 - flexible zoning requirements and development standards
 - reduced or modified parking requirements
 - reduced setback requirements
 - prioritized processing
 - certain fee waivers of developments that involve second units for low or very-low income households
 - allow for owner-occupancy in either primary or secondary unit
- Create an amnesty program to allow owners of illegal units to legalize their units
- Provide informational materials to homeowners and developers to market second-unit construction that includes a second unit application, explanation of the application process, and benefits/incentives of constructing or legalizing second units

Model Ordinances/Useful Sources:

- HCD Memorandum on AB1866 Second Unit Law and the Creation of Second Units in Meeting Regional Housing Need: http://www.hcd.ca.gov/hpd/hpd_memo_ab1866.pdf
- HCD “Second Units” http://www.hcd.ca.gov/hpd/housing_element2/SIA_secondunits.php
- San Mateo County 21 Elements, Second Units Memo “Best Practices and Sample Housing Element Language” <http://www.21elements.com/Download-document/485-Best-Practices-for-Second-Units-Fact-Sheet-for-San-Mateo-County.html>
- City of Santa Cruz, Accessory Dwelling Unit Development Program: <http://www.cityofsantacruz.com/index.aspx?page=1150>

²Section 15268 of the CEQA guidelines and Section 21080 (b)(1) of the Public Resources Code: <http://ceres.ca.gov/ceqa/guidelines/art18.html>

- City of Santa Cruz, Accessory Dwelling Units Zoning Regulations: <http://www.cityofsantacruz.com/Modules/ShowDocument.aspx?documentid=8862>
- Marin County, Second Units Amnesty Program: <http://www.21elements.com/Download-document/483-Amnesty-Program-for-Second-Units-Fact-Sheet.html>
- University of California, Berkeley, Center for Community Innovation, *Yes in My Backyard: Mobilizing the Market for Secondary Units*, Link: <http://communityinnovation.berkeley.edu/reports/secondary-units.pdf>

State Density Bonus Law

Summary and Benefits: In 2010, the state updated its density bonus law which requires local jurisdictions to provide density bonuses and other incentives to developers of affordable housing who commit a certain percentage of units for persons who fall within certain income levels. Density bonus may only be approved in conjunction with a development permit. Density bonuses are granted when a developer agrees to construct a housing development that includes at least one of the following:

- 5% of total units for very low income households
- 10% of total units for low income households
- 10% of total units (within a common interest development) for moderate income households
- Local jurisdictions must also provide bonuses in response to certain land donation, if developments include the construction of a childcare facility, and certain developments of senior housing.

Concessions and incentives will be granted at the applicant's request based on specific criteria. San Mateo County's [21 Elements](#) provides a breakdown of how concessions and incentives are granted based on the following criteria:

Target Group*	Target Units	Density Bonus	Concessions or Incentives
Very Low Income ⁽¹⁾	5%	20%	1
	10%	33%	2
	15% or above	35%	3
Lower Income ⁽²⁾	10%	20%	1
	20%	35%	2
	30% or above	35%	3
Moderate Income ⁽³⁾ (condominium or planned development)	10%	5%	1
	20%	15%	2
	30% or above	25%	3

* California Civil Code Section 65915 applies only to proposed developments of five (5) or more units.

(1) For each 1% increase over 5% of the Target Units the Density Bonus shall be increased by 2.5% up to a maximum of 35%

(2) For each 1% increase over 10% of the Target Units the Density Bonus shall be increased by 1.5% up to a maximum of 35%

(3) For each 1% increase over 10% of the Target Units the Density Bonus shall be increased by 1% up to a maximum of 35%

Target Group	Target Units	Density Bonus	Concessions or Incentives
Senior Housing (1)	100%	20%	1
Land Donation (2)	10% (very low income)	15-35%	1

(1) 35 units dedicated to senior housing as defined in Civil Code Sections 51.3 and 51.12

(2) For each 1% increase over 10% of the Target Units the Density Bonus shall be increased by 1% up to a maximum of 35%

Potential Policies:

- Amend density bonus ordinance to demonstrate how compliance with updated density bonus law will be implemented
- Identify specific incentives and concessions within the ordinance to encourage the construction of or conversion to affordable housing units, such as:
 - reductions in site development standards or modification of zoning code or architectural design requirements that result in identifiable, financially sufficient, and actual cost reductions
 - reductions in setback or square footage requirements
 - approval of mixed use zoning if it will reduce costs of housing development
 - other incentives that result in identifiable cost reductions

Model Ordinances/Useful Sources:

- California Government Code §65915: <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=65001-66000&file=65915-65918>
- San Mateo County 21 Elements: <http://www.21elements.com/Download-document/518-State-Density-Bonus-Law.html>
- ABAG’s Housing Element Tool Kit “Density Bonuses” <http://www.abag.ca.gov/planning/toolkit/24density.html>
- American Planning Association’s Model Affordable Housing Density Bonus Ordinance: <http://www.planning.org/research/smartgrowth/pdf/section44.pdf>

Permanently Affordable Homeownership – Community Land Trusts

Summary and Benefits:

A community land trust (CLT) is a nonprofit organization formed to hold title to land to ensure long-term availability for affordable housing or other community uses. CLTs acquire property through public or private donations of land or use government subsidies to purchase land on which affordable housing can be built. The homes are sold to low or moderate-income families, in accordance with the deed restriction, and the CLT retains ownership of the land and provides long-term ground leases and stewardship to homebuyers in return for a minimal fee. The CLT restricts the resale of the home to a formula-driven price and retains an irrevocable option to purchase to ensure future affordability.

CLTs have been a particularly strong and unique development option in the San Francisco Bay area, where the land trusts are able to provide a variety of homeownership opportunities not often available to low and moderate income individuals in areas experiencing a rapid rise in land value. CLTs in the Bay Area have been able to provide housing opportunities in the form of single family homes, limited equity condominiums, limited equity housing cooperatives, and zero equity cooperatives to low and moderate income individuals. These options allow low and moderate individuals and families the opportunity for homeownership at a lower buy-in than many other forms of ownership.

Since the early 1970s, Community Land Trusts have been used to permanently preserve affordable ownership housing for low and moderate-income families. Recently, there has been a national boom in CLT formation with nearly 20 new community land trusts being created each year. Two key policy needs are driving this new interest in CLTs—particularly in jurisdictions with a social priority of promoting homeownership for lower-income families and a fiscal priority on protecting the public’s investment in affordable housing:

- **Long-term preservation of subsidies.** With local governments now assuming greater responsibility for creating affordable housing, policy makers must find ways to ensure that their investments have a sustained impact. CLT ownership of land, along with long-term affordability constraints over the resale of housing units built on that land, ensures that municipally subsidized homes remain available for lower-income homebuyers for generations to come. In the Bay Area market rate home prices are outstripping growth in incomes, as shown by the median home price to median income ratio growing from 4.9 in 1999, to 6.8 by the end of 2012.
- **Long-term stewardship of housing.** Preserving affordability requires long-term monitoring and enforcement, an administrative burden that local governments are neither equipped for nor generally interested in taking on. CLTs are well positioned to play this stewardship role by administering the municipality’s eligibility, affordability, and occupancy controls, while also backstopping lower-income owners to protect subsidized homes against loss through deferred maintenance or mortgage foreclosure.

Potential Policies:

- Promote the formation of start-up CLTs:
 - Facilitate public information/outreach activities
 - Create municipally supported CLTs
 - Provide start-up financing
 - Commit multi-year operational funds

- Commit project funding and/or municipal property for permanently affordable ownership housing in the CLT model
- Subsidize affordable housing development by either donating land and buildings from the municipality's own inventory to a community land trust or selling the properties at a discount
- Regulatory concessions: Municipalities sometimes support development of CLT homes by reducing or waiving application and impact fees, relaxing zoning requirements for parking or lot coverage, and offering other regulatory concessions

Model Ordinances/Useful Sources:

- The City of Petaluma has encouraged developers of several subdivisions to meet its city-mandated inclusionary requirements by conveying homes to the Housing Land Trust of Sonoma County. Under these agreements, developers sell the homes to CLT-selected buyers and simultaneously donate the land under the homes to the land trust. This program allows developers to meet their inclusionary requirements without having to monitor and report. CLT oversight is also in the jurisdiction's best interest because many for-profit development companies dissolve after they complete their projects. See 2.3 page 9 of <http://cityofpetaluma.net/cdd/pdf/housing-element-2009-2014.pdf>
- A broad overview of how cities and CLTs are partnering to create and preserve permanently affordable ownership housing: "The City-CLT Partnership: Municipal Support for Community Land Trusts" https://www.lincolnst.edu/pubs/dl/1395_712_City-CLT-Policy-Report.pdf
- A very useful policy paper with several case studies of cities using the CLT model for TODs is "The Role of Community Land Trusts in Fostering Equitable, Transit-Oriented Development: Case Studies from Atlanta, Denver, and the Twin Cities" https://www.lincolnst.edu/pubs/dl/2243_1579_Hickey_WP13RH1.pdf
- The City of Irvine plans to place most of the inclusionary housing units constructed in future years into the CLT's portfolio.
- The city council of Washington, DC, committed \$10 million in public funds to help subsidize the first 1,000 units of resale-restricted, owner-occupied housing developed by City First Homes, a District-wide CLT that plans to eventually create 10,000 units of affordable housing.
- The City of Minneapolis provides interest-free, deferred loans with a 30-year term to the City of Lakes CLT. The loans are forgiven at maturity as long as the CLT consistently meets the city's performance standards.

Home Sharing

Summary and Benefits:

Home Sharing partners those who have space in their home with those who need an affordable place to live, turning existing housing stock into a new affordable housing option. While the average rent for a one-bedroom apartment in San Mateo County is \$2095, the rents in home sharing range between \$600 and \$800. As a result, home sharing is one of the few affordable housing options available in San Mateo County.

An example of this is HIP Housing in San Mateo County. Established in 1972, it is a well-established program with many best practices. The program provides criminal background checking, income verification, mediation, living together agreements and long-term case management to ensure the best matches possible. As a result, the average home sharing match is 2.5 years.

Outcome data from HIP Housing's work indicates that of those placed through home sharing:

- 90% are low-income
 - 20% low (80% AMI)
 - 25% very low (50% AMI)
 - 46% extremely low (30 or below AMI)
- 53% are seniors
 - 70% of the home providers are seniors
- 38% are disabled
- 58% are at risk of homelessness
- 8% are homeless
- 61% are female head of households

In San Mateo County, every municipality benefits from the HIP Housing Home Sharing Program. Someone in Pacifica could be matched with someone in Daly City; someone from Menlo Park with someone from Redwood City; San Mateo and Belmont. Preschool teachers, law clerks, students, construction workers, medical assistants, bank tellers, home health aides, seniors and single parents use the program as well as many others.

Home Sharing meets the housing needs of low, very low, and extremely low-income people. Because so few affordable housing options exist in San Mateo County, it is important that Home Sharing be included in every city's housing element as part of the policies and practices they employ to ensure that there are housing options for those at every income level, including those at the lowest income levels.

While Home Sharing may not create RHNA-recognized units, it is a vital option to be considered in any municipality's strategy to meet the growing need for housing, especially in communities that have numbers of residents that are considered "house rich, cash poor."

Potential Policies:

- Prominently list local home sharing organization's Home Sharing Program when addressing the housing options and needs for people who are:

- Homeless
- At risk of homelessness
- Seniors
- Female head of household
- Low, very low and extremely low income
- Sample Language: [Insert City Name] supports [local home sharing organization] Home Sharing Program as part of a collection of policies, programs and practices for addressing the housing needs of those at the lowest income levels including seniors, those living with disabilities, those at risk of homelessness and female head of households.

Model Ordinances/Useful Sources:

- Housing Elements currently in place for the cities of Belmont, Burlingame, Daly City, Foster City, and San Mateo
- HIP Housing, San Mateo County, link: www.hiphousing.org

Additional Useful Sources

- Public Interest Law Project, *California Housing Element Manual, 3rd Ed.*, November 2013, Link: <http://pilpca.org/wp-content/uploads/2013/11/California-Housing-Element-Manual-3rd-Ed.-November-2013.pdf>
- Public Interest Law Project, *California Housing Element Manual Appendices, 3rd Ed.*, November 2013, Link: <http://pilpca.org/wp-content/uploads/2010/10/California-Housing-Element-Manual-3rd-Ed.-Appendices-2013.pdf>
- 21 Elements, San Mateo Countywide Housing Element Update Project, www.21elements.com
- Association of Bay Area Governments, *Blueprint 2001 for Bay Area Housing*, <http://www.abag.ca.gov/planning/housingneeds/blueprint.html>

Sites Suitable for Housing

- 2469 State law requires the town to demonstrate that sufficient residential housing sites exist in town to accommodate the town's share of total regional housing need. The town's housing need is shown in the table below.

Housing Need for Portola Valley, 2014-2022	
Income Category	Units
Extremely Low	11
Very Low	10
Low	15
Moderate	15
Above Moderate	13
Total	64

- 2469a The following site inventory goes through three steps to determine how much housing could be built in Portola Valley during the current planning period. First, areas that are not suitable for development are identified and removed from consideration. Second, the vacant land in the remainder of the town is identified, and the realistic development capacity for this land is determined. Finally, the suitability of the vacant land for development is described, together with the likelihood of development during the planning period.

A Process of Elimination

- 2470 Portola Valley faces different constraints on development than any other community on the Peninsula, with the possible exception of Woodside. Much of Portola Valley is unsuitable for development for one or more reasons. The major constraints on development are the presence of the San Andreas fault, large areas of landslides, the steepness of slopes, and the fire hazards due to natural conditions.

Physical Limitations

- 2470a The San Andreas Fault runs through the center of the town. The fault poses problems of fault offset as well as intense ground shaking. The fault separates the North American Plate from the Pacific Plate. The nature of the geology on the two sides of the fault is very different. By and large, the area to the east of the fault possesses largely stable land devoid of landslides. The area to the west of the fault, however, is composed of large areas of active and potential landslides. These landslides can be triggered by rainfall, grading as well as earthquakes.

- 2470b Portola Valley has been a national leader in planning for land use that recognizes geologic instabilities. See for instance, "A Model for Effective Use of Geology in Planning, Portola Valley, California" which was included in Landslide Hazards and Planning, Planning Advisory Service Report Number 533/534, published by the American Planning Association in 2005. Portola Valley has mapped the geology of the entire town at a scale of 1" = 500'. The town geologist reviews all proposed development in geologically hazardous areas. The town's geologic map is far too detailed to include in the housing element; however, two State of California geologic maps are included in the element that describe the hazards in some detail. First, the state map of the San Andreas fault is shown on Exhibit 1 and the legend for the map on Exhibit 2. The town boundaries have been added to the map. The map clearly indicates how the central part of the town is affected. Second, the state map of seismic hazard zones is shown on Exhibit 3 and the legend on Exhibit 4. A brief look at the map confirms that the western part of the town is almost entirely subject to earthquake induced landslides. A somewhat lesser hazard is depicted by substantial areas that are subject liquefaction. In most instances, there are geotechnical solutions to liquefaction provided a project can bear the high cost of a solution.
- 2470c Another major limitation are the extremely steep slopes in the western part of the town. These are shown on Exhibit 5. It is clear that there are large areas of 50% or greater in slope and significant areas in the 30% to 50% range. Development is extremely difficult in areas with slopes in excess of 50% and very difficult in areas with slopes in excess of 30%.
- 2470d Fire hazards pose another limitation on development. The town recently contracted for a fire study made by Mortiz Arboricultural Consulting Inc, a nationally recognized authority and the map in reduced form is shown on Exhibit 6. A review of the map with the aid of the legend makes it clear that much of the western part of the town is exposed to very high fire hazards.
- 2470e In sum, the combination of the San Andreas Fault, large areas of landslides, very steep slopes and high fire hazards form a major basis for the town's general plan and zoning regulation that permit only a very limited amount of development in the western hillsides. Further limitations include a lack of public roads and water supply. Together with the hazards listed above, these require that the town protect the public interest with strict limitations on development in the western hillsides.
- 2470f The eastern part of the town is completely different from the western part. In the eastern part of the town, landslides are few, slopes less steep, fire hazard less and the area is served by public roads and a public water supply developed to meet fire fighting requirements. It is no wonder that the historic development of the town

started in the eastern part and has continued in this part in the years since the town incorporated in 1964.

Sanitary Sewer Limitations

2470g As a “rural” community Portola Valley was developed with lots served by septic tank and drainfield systems. The town does not have a sewer system. The sewers that do exist are provided by the West Bay Sanitary District. The district does not install sewers, but developers and homeowners are responsible for annexing their properties to the district and paying for the cost of extending and hooking-up to sewers. Since most of the town has lots in excess of 1 acre, septic tank systems have in general worked well. New subdivisions including Portola Valley Ranch and Blue Oaks do have sanitary sewers. Also, in some areas individual property owners or groups of owners have banded together to annex to the district. Very few vacant properties are served by sewers, and those properties are vacant lots in new subdivisions where changes in zoning would not be expected and would likely result in incompatible development.

Water Supply

2470h Water for Portola Valley is supplied by the California Water District. The Water District has stated that it can supply the water to serve Portola Valley’s housing need.

Distribution to Water and Sewer Providers

2470i As is required by Chapter 727m Statutes of 2004 (SB 1087), when this housing element is adopted the town will immediately send a copy of the element to the local water and sewer providers.

Inventory of Vacant Parcels

2471 The table that starts on the following page lists 84 vacant or largely vacant parcels in the town, shows the zoning and General Plan designations, summarizes environmental constraints, and estimates the realistic new unit capacity for each. Keys for the abbreviations used in the table are provided at the end of the table. Some sites have significant geologic problems and would be particularly difficult to develop; these sites are marked with an asterisk(*) and would be unlikely to develop during the planning period.

Inventory of Land Suitable for Residential Development in Portola Valley

Site	APN	Zone	Density District	Allowable Density (Dwelling Units/Acre)	GP Designation	Acres	Realistic New Unit Capacity**	Infrastructure Capacity	Environmental Constraints
1*	076-181-070	R-E	1A	1	Low	0.1	1	No sewer	Md
2*	076-181-090	R-E	1A	1	Low	0.4	1	No sewer	Md
3*	076-182-020	R-E	1A	1	Low	0.6	1	No sewer	Pd
4*	076-184-040	R-E	1A	1	Low	1.0	1	No sewer	Md
5*	076-192-100	R-E	1A	1	Low	0.5	1	No sewer	Md
6*	076-192-120	R-E	1A	1	Low	1.8	1	No sewer	Md
7*	076-192-130	R-E	1A	1	Low	0.2	1	No sewer	Md
8*	076-192-140	R-E	1A	1	Low	0.1	1	No sewer	Md
9	not used								
10	076-212-100	R-1	20M	2	Low-Medium	0.1	1	No sewer	n/a
11	076-231-070	R-1	20M	2	Low-Medium	0.1	1	No sewer	n/a
12	076-234-050	R-1	20M	2	Low-Medium	0.1	1	No sewer	n/a
13*	076-238-030	R-E	1A	1	Low	0.8	1	No sewer	Pd
14*	076-244-030	R-E	1A	1	Low	1.1	1	No sewer	Md
15*	076-244-070	R-E	1A	1	Low	0.7	1	No sewer	Md
16*	076-244-080	R-E	1A	1	Low	0.3	1	No sewer	Pd
17*	076-251-090	R-1	20M	2	Low-Medium	2.1	2	No sewer	SA Fault
18	not used								
19	076-261-120	C-C	PD	5	Local Shopping/Service	1.3	5 (55+ yrs) 1 BMR in process	Sewer	SA Fault
20*	076-330-030	R-E	3.5A	0.3	Cons Res	14	1	No sewer	SA Fault, Will. Act
21*	076-330-075	R-E	3.5A	0.3	Cons Res, Open Res	356	25	No sewer	Md, Pd, Sbr
22*	076-340-060	R-E	3.5A	0.3	Cons Res, Open Res	229	29	No sewer	Md, Pd, Sbr
23*	076-350-280	M-R	7.5A	0.13	Cons Res, Open Res	23	1	No sewer	Steep Slopes

Site	APN	Zone	Density District	Allowable Density (Dwelling Units/Acre)	GP Designation	Acres	Realistic New Unit Capacity**	Infrastructure Capacity	Environmental Constraints
24*	076-380-110	R-E	1A	1	Low	5.9	1	No sewer	Md
25	077-040-080	R-E	2.5A	0.4	Cons Res	2.5	1	No sewer	n/a
26	077-040-090	R-E	2.5A	0.4	Cons Res	2.8	1	No sewer	n/a
27	077-040-100	R-E	2.5A	0.4	Cons Res	2.7	1	No sewer	n/a
28	077-050-190	R-E	2.5A	0.4	Cons Res	2.5	1	No sewer	n/a
29	077-070-110	R-E	2.5A	0.3	Cons Res	4	1	No sewer	n/a
30	077-011-050	R-E	2.5A	0.3	Cons Res	2.6	1	No sewer	n/a
31	077-060-290	R-E	2.5A	0.4	Cons Res	7.4	1	No sewer	n/a
32	077-070-070	R-E	2.5A	0.4	Cons Res	3.1	1	No sewer	n/a
33	077-090-140	R-E	2.5A	0.4	Cons Res	2.5	1	No sewer	n/a
34	077-101-170	R-E	1A	1	Low	2.7	1	No sewer	n/a
35	not used	R-E							
36	077-225-080	R-E	1A	1	Low	1.2	1	No sewer	n/a
37	077-232-030	R-E	2A	0.5	Cons Res	2.7	1	No sewer	n/a
38	077-232-040	R-E	2A	0.5	Cons Res	2.8	1	No sewer	n/a
39	077-232-060	R-E	2A	0.5	Cons Res	2.0	1	No sewer	n/a
40*	077-242-120	R-E	1A	1	Low	4.7	1	No sewer	Steep slopes; partial OSE
41	077-242-210	R-E	1A	1	Low	3.6	1	No sewer	Partial OSE
42	077-261-210	R-E	2.5A	0.4	Cons Res	2.7	1	No sewer	n/a
43	not used								
44	077-281-020	R-E	3.5A	0.4	Cons Res	75.4	29	No sewer	n/a
45	077-290-010	R-E	1A	1	Low	1.0	1	No sewer	n/a
46	077-310-210	R-E	1A	1	Low	1.1	1	No sewer	n/a
47	077-372-070	R-E	1A	1	Low	1.0	1	No sewer	n/a
48	not used								
49	not used								
50	079-053-160	R-E	1A	1	Low	3.0	2	No sewer	n/a
51	079-053-170	R-E	1A	1	Low	3.0	2	No sewer	Steep slopes

Site	APN	Zone	Density District	Allowable Density (Dwelling Units/Acre)	GP Designation	Acres	Realistic New Unit Capacity**	Infrastructure Capacity	Environmental Constraints
52	not used								
53	079-053-340	R-E	1A	1	Low	1.2	1	No sewer	n/a
54	not used								
55	not used								
56	not used								
57	not used								
58	079-060-940	R-E	1A	1	Low	1.0	1	Sewer	n/a
59	079-060-980	R-E	1A	1	Low	1.0	1	Sewer	n/a
60	not used								
61	not used								
62	079-092-480	R-E	1A	1	Low	1.1	1	No sewer	n/a
63	079-101-390	R-E	1A	1	Low	2.5	1	No sewer	Steep slopes
64	not used								
65*	079-140-280	R-E	1A	1	Low	1.1	1	No sewer	SA Fault
66	079-151-050	R-E	1A	2	Low-Medium	0.4	1	No sewer	Narrow lot, creek setback, subject to flooding
67	not used								
68	079-220-010	R-E	1A	1	Low	4.5	1	Sewer	n/a
69	079-220-020	R-E	1A	1	Low	4.7	1	Sewer	Narrow lot
70	079-220-030	R-E	1A	1	Open Res	5.8	1	Sewer	n/a
71	not used								
72*	080-010-020	M-R	7.5A	0.13	Open Res	13.6	1	No sewer	OSE
73*	080-010-030	M-R	7.5A	0.13	Open Res	33.4	1	No sewer	Pd, Sbr OSE
74*	080-010-040	M-R	7.5A	0.13	Open Res	44.0	1	No sewer	Pd, Md OSE
75*	080-020-010	M-R	7.5A	0.13	Open Res	18.0	1	No sewer	Md, Sbr, OSE
76*	080-020-020	M-R	7.5A	0.13	Open Res	14.8	1	No sewer	OSE
77*	080-020-030	M-R	7.5A	0.13	Open Res	20.2	1	No sewer	OSE

Site	APN	Zone	Density District	Allowable Density (Dwelling Units/Acre)	GP Designation	Acres	Realistic New Unit Capacity**	Infrastructure Capacity	Environmental Constraints
78*	080-020-040	M-R	7.5A	0.13	Open Res	25.0	1	No sewer	Md, Ps, Sbr
79*	080-020-050	M-R	7.5A	0.13	Open Res	46.0	1	No sewer	Ms, Ps, Sbr, OSE
80*	080-020-080	M-R	7.5A	0.13	Open Res	4.6	1	No sewer	Md, Ps
81*	080-020-100	M-R	7.5A	0.13	Open Res	20.6	1	No sewer	Pd
82*	080-020-110	M-R	7.5A	0.13	Open Res	4.4	1	No sewer	Pd
83*	080-040-010	M-R	7.5A	0.13	Open Res	8.0	1	No sewer	Pd
84*	080-040-040	M-R	7.5A	0.13	Open Res	33.7	1	No sewer	n/a
85*	080-040-060	M-R	7.5A	0.13	Open Res	16.4	1	No sewer	Md, Pd, Sbr
86*	not used								
87*	080-040-110	M-R	7.5A	0.13	Open Res	10.7	1	No sewer	Pd
88*	080-040-120	M-R	7.5A	0.13	Open Res	31.0	1	No sewer	Pd, Sbr
89	080-241-020	R-E	3.5A	PD	Cons Res	2.2	1	Sewer	n/a
90	080-241-030	R-E	3.5A	PD	Cons Res	2.3	1	Sewer	n/a
91	not used								
92	not used								
93	080-241-110	R-E	3.5A	PD	Cons Res	2.1	1	Sewer	n/a
94	080-241-130	R-E	3.5A	PD	Cons Res	2.0	1	Sewer	n/a
95	080-241-150	R-E	3.5A	PD	Cons Res	1.4	1	Sewer	n/a
96	not used								
97	080-241-230 080-241-240	R-E	3.5A	PD	Cons Res	1.1	1	Sewer	n/a
98	not used								
99	not used								
100	080-241-280	R-E	3.5A	PD	Cons Res	1.7	1	Sewer	n/a
101	not used								
102	not used								
103	080-471-030	R-E	2A	PD	Cons Res	0.5	1	Sewer	n/a
104	080-500-030	R-E	2A	PD	Cons Res	0.6	1	Sewer	n/a

* Sites marked with an asterisk have greater than average geologic hazards or other environmental constraints and would be particularly difficult to develop

** The "Realistic New Unit Capacity" is based on the number of vacant lots and potential new lots that could be created through subdivision

Zones

R-E= Residential Estate, R-1 = Single Family Residential, M-R = Mountainous Residential, C-C= Community Commercial

Density District (Residential Density Combining District) sets the minimum lot size

15M= 15,000 sf, 20M= 20,000sf, 1A= 1 acre, 2A= 2 acres, 2.5A= 2.5 acres, 3.5A= 3.5 acres, 7.5= 7.5 acres, PD = set by Planned Development

Allowable Density

PD = set by Planned Development

GP (General Plan) Designation

Cons Res = Conservation Residential, Open Res = Open Space Residential, Low = Low Intensity Residential, Low-Medium = Low-Medium Intensity Residential, Local Shopping/Service = Local Shopping and Service Commercial

Environmental Constraints

SA Fault = a trace of the San Andreas Fault passes through the property

Sbr = Stable bedrock, Ps = potential shallow landslide, Pd = potential deep landslide, Md = moving deep landslide

OSE = Open Space Easement

Williamson Act = Land is under Williamson Act contract, which limits development potential

- 2471a In addition to the table, a map showing the parcels described in the table and titled "Inventory of Land Suitable for Residential Development," has been prepared (Exhibit 7).

Analysis of Suitability for Development

- 2472 This analysis looks at four different types of potential new residential development: single family homes on existing lots; large parcels that could accommodate a number of new homes; potential locations for multifamily development; and second units. Each of these types is discussed below.

Single Family Homes

- 2472a As the inventory shows, an estimated 70 new single family homes could be accommodated on existing lots or through small (2 unit) subdivisions. Of these, approximately half have significant environmental issues and are unlikely to develop within the planning period. However, there are still over 30 existing lots for single family homes remaining in town that could reasonably be developed by 2022.
- 2472b There have been 32 homes built during the past ten years, for an average of 3.2 new homes per year. In the eight year planning period, a total of approximately 26 new homes would be built if construction rates continue. This estimate appears to be reasonable given that the capacity exceeds this estimate. All 26 of these homes would be expected to be affordable only to households with above moderate incomes.

Large Parcels

- 2472c There are 5 sites or groups of sites listed on the site inventory that could accommodate larger amounts of housing. Each of these is discussed briefly below.

Site 19 (Sausal Creek) is a 1.3 acre parcel that has been approved for development with five single family homes for residents age 55 and older, plus one below market rate unit. This development was on hold for the duration of a lawsuit filed by a neighbor, which was resolved in late 2007 in favor of the proposed development, and the property is currently on the market. The development approvals would expire in 2015.

Site 21 (El Mirador Ranch) is one of the largest privately owned parcels in town, with 356 acres in the western hillsides. Because of steep slopes, deep canyons, and landslides on much of the property, as well as the presence of the San Andreas Fault, development on this site would likely need to be clustered in a 10 acre area

located near Portola Road. The property does not have sewer access, which also limits potential density. Given all of the constraints on the land, probably no more than 25 homes could be built on this property. However, the current property owners have stated that they intend to hold the property as open space. Therefore, no new residential development is anticipated for this site by 2022.

Site 22 (Spring Ridge LLC) is located next to Site 21 and faces many of the same challenges: steep slopes, landslides, the San Andreas Fault, and a lack of sewer service. New development on this site would likely also need to be clustered, and a maximum of 29 units could probably be built here. Much of the parcel is now being used to grow grapes for the winery on the property. Property owners have indicated that they might be interested in developing the land but that they are not in a hurry to do so. No new residential development is anticipated on this site by 2022.

Site 44 (Stanford Wedge) is an 89 acre site owned by Stanford University. The land consists of a relatively flat portion along Alpine Road surrounded by steep hillsides to the sides and rear of the property. Development on this site would need to be clustered in the land by Alpine Road. There is approximately 4 acres of usable land on the parcel once all of the steep slopes, unstable areas and required setbacks are subtracted. Under the town's regulations, 27.625 single family dwelling units would be allowed on the parcel overall. Affiliated housing would also be allowed on this parcel, as is discussed further below.

Sites 72–79, 81-82 (Fogarty Winery) are occupied by an award winning winery including vineyards, storage and bottling facilities and an event center. The remote site is located in the western hillsides and includes many steep slopes and landslide hazards. In addition, an open space easement covers much of the winery. There is no sewer service or public water supply. Although these sites together could theoretically eventually accommodate some number of new homes in the future, additional development is not anticipated by 2022.

Affiliated Development

2472d Portola Valley is a rural community with a history of single family development on large lots. To accommodate some multifamily development, however, the town developed a housing program in the early 1990s that would allow multifamily housing on institutional sites for employees and staff affiliated with the institutions that own the parcels. This program allows affiliated affordable multifamily housing on three designated sites in town, each with a planned development permit. These sites are discussed below and shown on Exhibit 8, Potential Affiliated Affordable Housing Sites.

- 2472e The Stanford Wedge is an 89 acre site owned by Stanford University, which was discussed above as one of the large parcels of land remaining in town that could be developed with housing. The town's regulations would allow 27.625 single family dwelling units on the parcel overall, and Section 2106e of the General Plan allows this density to increase by a factor of three for multifamily affordable housing, as long as the overall floor area does not exceed the amount allowed for market rate development. Therefore, up to 82.9 units could potentially be provided on this site, although the number would likely be lower.
- 2472g This site could potentially be developed with faculty or graduate student housing; because of the distance from the university campus, undergraduate housing is unlikely. Town officials and staff have discussed this possibility with Stanford officials over many years, but the University has not indicated any intention to either sell or develop this land.
- 2472h The second site for multifamily housing is The Priory School site. In 2001, the town approved an application to construct seven multifamily units for faculty and staff on the site. These units were approved with the following condition:
- "The Priory shall make every effort reasonably possible, to the satisfaction of the planning commission, to ensure a majority of the units are occupied so as to achieve the below market rate town housing element objectives. These objectives anticipate at at least one unit would be for a very low income household, one unit for a low income households, and three units for moderate income households. Relative to this condition, the Priory shall file a report with the planning commission on the projected unit occupancy prior to initial occupancy and annually thereafter. The report shall advise the commission how occupancy relates to the housing element objectives."*
- 2472i The housing element goals set forth in this condition were based on the draft housing element that was under discussion at the time the project was approved in 2001. The Priory School reports annually to the town on whether these income targets are being met. In 2012, one unit was occupied by a low income household, two units were occupied by moderate income households, three units were occupied by above moderate income households, and one unit was vacant. Each unit is being provided at rents at or below 30% of the household income. Overall, the School usually does meet the requirements, although a unit may be occupied by a higher income household for a period of time when household incomes increase. The school works to provide the housing to the lowest income staff possible when a unit turns over.
- 2472j In 2005, the town approved a Master Plan for the school property that includes eleven additional housing units to be built in the future. The school has been working on implementing other portions of its Master Plan to date, but those units

are still approved. Because the Priory has had difficulty maintaining units at the very low income level, this housing element anticipates that the 11 new units would be divided among the income categories as follows: 3 low income units, 4 moderate income units, and 4 above-moderate income units.

2472k The Sequoias has not added any housing at their facility between 2009 and 2014. The affiliated housing program would permit employee housing to be built on the site. Town staff has talked with representatives of the Sequoias about the possibility of employee housing on the site. The Sequoias is exploring options for employee housing, although the site is severely constrained by geology, including an active trace of the San Andreas fault which passes through part of the property

Second Units

2472l Between July of 2008 and December of 2013, 29 new second units were approved in Portola Valley, for an average of 5.3 new units per year. This is an increase over the Town's previous average, which was 4.9 new second units per year as reported in the 2009 housing element. The 2009 element included actions to encourage additional second unit production, including increased publicity and preparation of a second units manual for the town. Second unit production does now appear to be increasing in town, and more applications are including second units.

2472m This housing element also includes provisions to encourage increased production of second units, including allowing staff-level review of second units up to 750 square feet in size, allowing two second units on parcels that are over 3.5 acres in size, and allowing larger second units up to 1,000 square feet on lots that are 2 acres or more.

2472n These measures are anticipated to increase the number of second units built in the town by about one unit per year, from an average of 5.3 units annually to approximately 6.5 units annually. The town therefore anticipates the construction of 6.5 second units per year for the eight-year planning period. Total second unit production is therefore estimated to be 52 units. Exhibit 9 shows the areas of town where second units are allowed, and the approximate locations of the permitted second units in Town.

Summary of Site Inventory

2473 As described above, there are four types of housing sites in Portola Valley: single family home sites, large parcels, affiliated housing sites, and sites for second units. The table below shows the number of existing sites that the town would expect to develop by 2022 in each category under current town policies, as set forth above.

The table then compares these results with the town's Regional Housing Needs Allocation (RHNA) numbers.

2473a The table below shows that the Town of Portola Valley would provide more than enough housing for households with extremely low incomes and with above moderate incomes, and sufficient housing for moderate income households, but not enough for very low or low income households. However, state policies allow the extra housing for extremely low income households to be counted towards housing needed for very low and low income households. All together, 40 units of extremely low, very low and low income housing are planned in this housing element, compared to the 36 units which are required to meet the Town's RHNA. As a result, there are sufficient sites to accommodate all of the housing need for Portola Valley.

Existing Sites for New Homes by 2014, Compared with Adjusted Housing Need						
	Ex Low	Very Low	Low	Moderate	Above Moderate	Total
Sites for Housing Expected from 2014-2022						
Single Family	0	0	0	0	26	26
Inclusionary	0	0	1	0	5	6
Affiliated	0	0	3	4	4	11
Second Units	26	0	10	11	5	52
Total Sites	26	0	14	15	40	95
RHNA	11	10	15	15	13	64

2473b In addition, there is a vacant site that could be developed with affiliated multifamily affordable housing under the town's regulations (Site 44). Because the property owner has not expressed any interest in developing the site, it has not been included as a site that is expected to develop by 2022. However, some development could potentially occur on that site during the planning period.

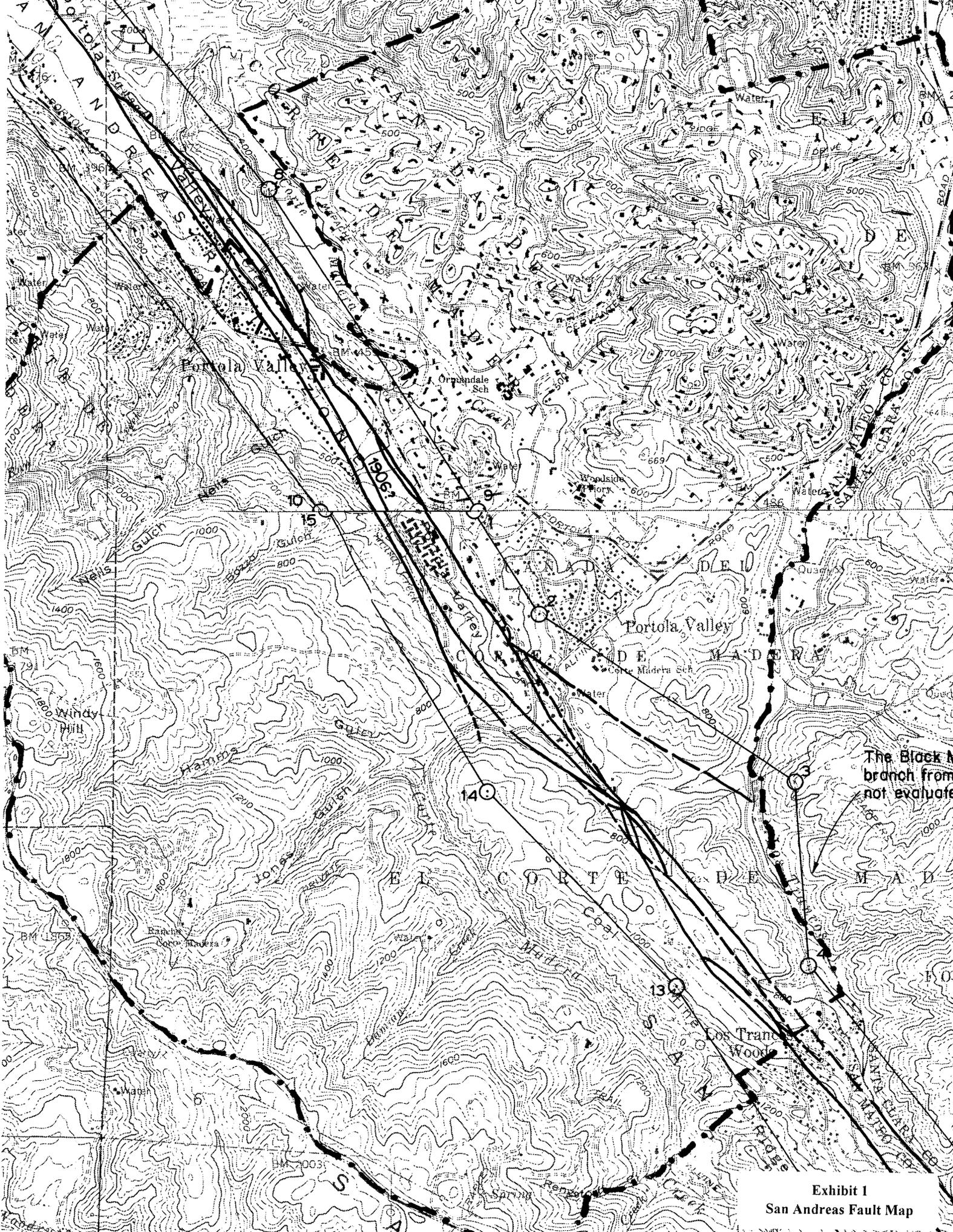


Exhibit I
San Andreas Fault Map

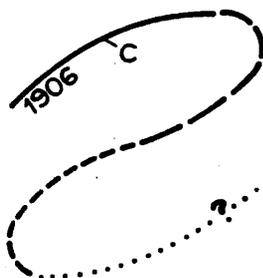
STATE OF CALIFORNIA

SPECIAL STUDIES ZONES

Delineated in compliance with
Chapter 7.5, Division 2 of the California Public Resources Code

MAP EXPLANATION

Potentially Active Faults

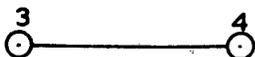


Faults considered to have been active during Quaternary time; solid line where accurately located, long dash where approximately located, short dash where inferred, dotted where concealed; query (?) indicates additional uncertainty. Evidence of historic offset indicated by year of earthquake-associated event or C for displacement caused by creep or possible creep.

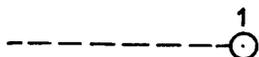


Aerial photo lineaments (not field checked); based on youthful geomorphic and other features believed to be the results of Quaternary faulting.

Special Studies Zone Boundaries



These are delineated as straight-line segments that connect consecutively numbered turning points so as to define one or more special studies zone segments.



Seaward projection of zone boundary.

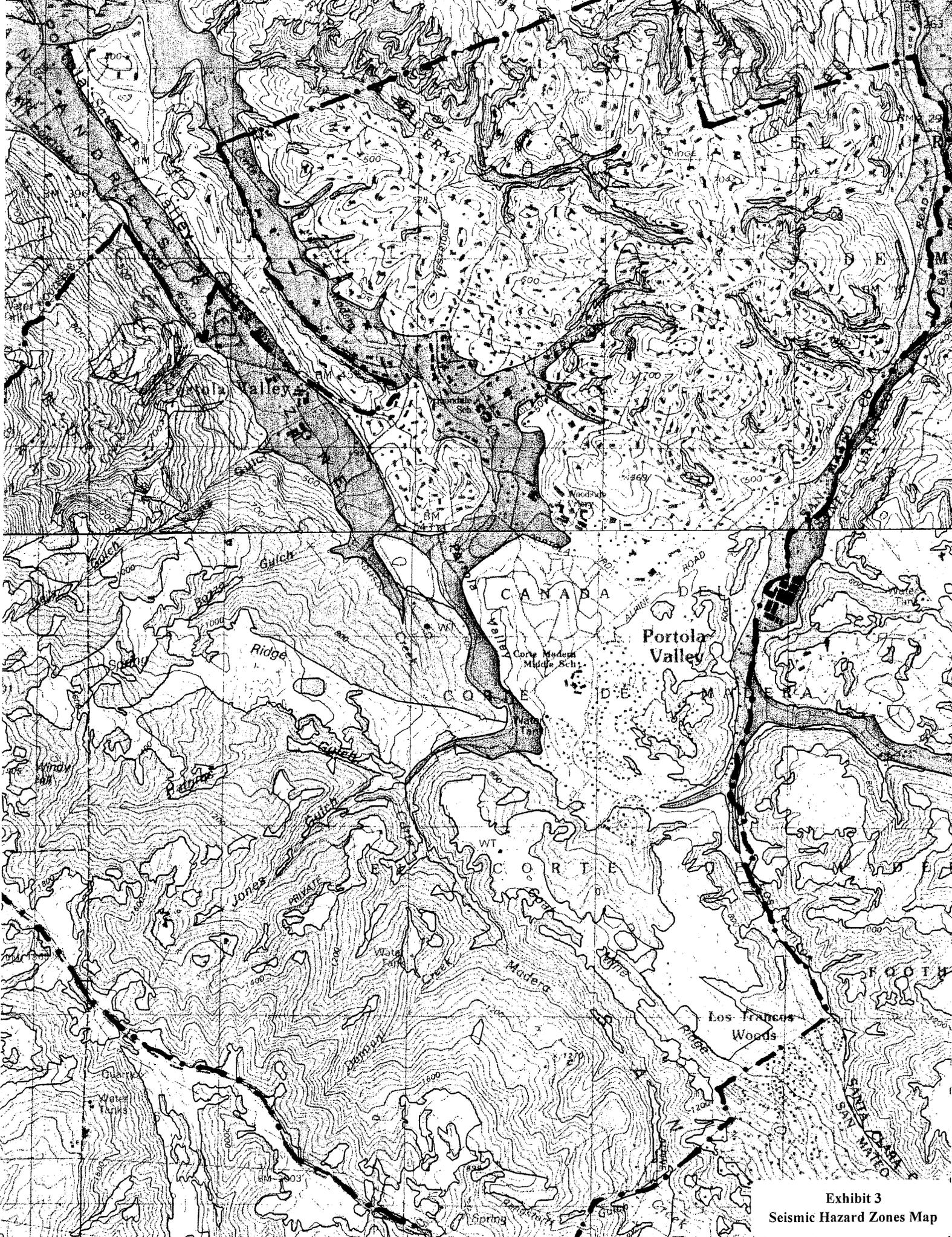


Exhibit 3
Seismic Hazard Zones Map

STATE OF CALIFORNIA SEISMIC HAZARD ZONES

Delineated in compliance with
Chapter 7.8, Division 2 of the California Public Resources Code
(*Seismic Hazards Mapping Act*)

PALO ALTO QUADRANGLE

MAP EXPLANATION

Zones of Required Investigation:

Liquefaction



Areas where historic occurrence of liquefaction, or local geological, geotechnical and groundwater conditions indicate a potential for permanent ground displacements such that mitigation as defined in Public Resources Code Section 2693(c) would be required.

Earthquake-Induced Landslides

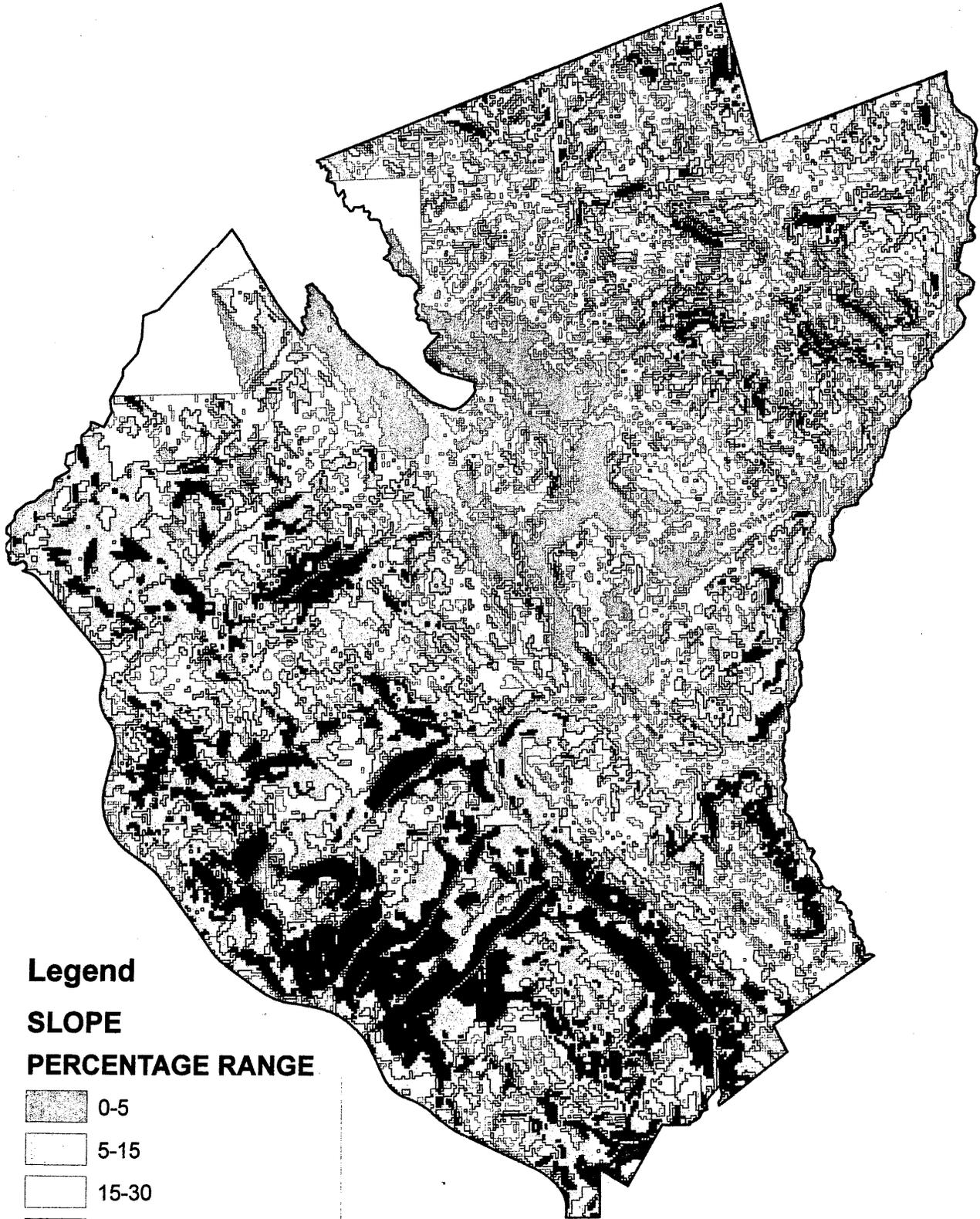


Areas where previous occurrence of landslide movement, or local topographic, geological, geotechnical and subsurface water conditions indicate a potential for permanent ground displacements such that mitigation as defined in Public Resources Code Section 2693(c) would be required.

NOTE:

Seismic Hazard Zones identified on this map may include developed land where delineated hazards have already been mitigated to city or county standards. Check with your local building/planning department for information regarding the location of such mitigated areas.

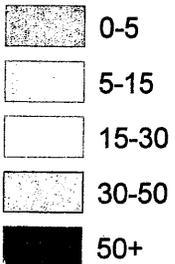
SLOPE CLASS



Legend

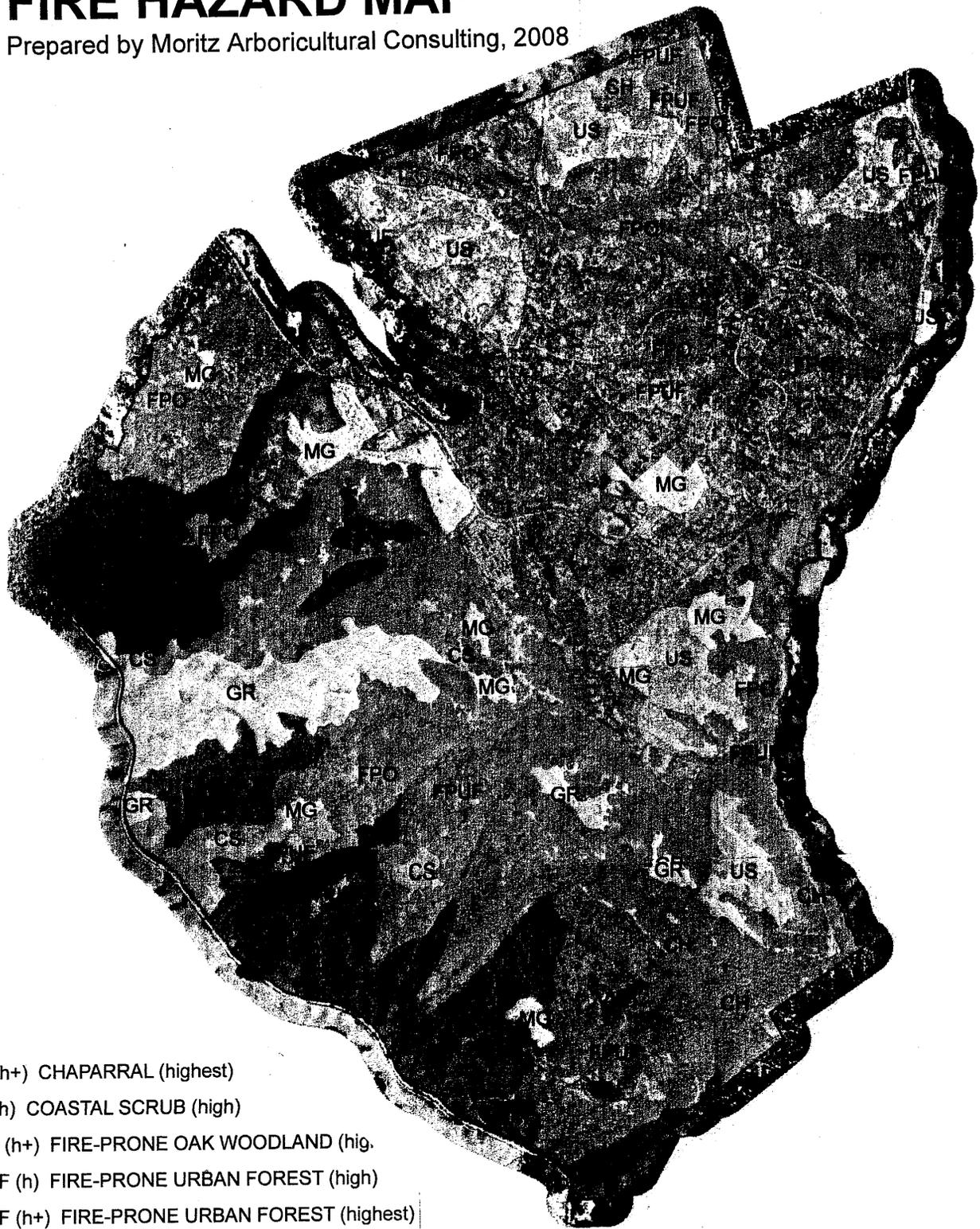
SLOPE

PERCENTAGE RANGE



FIRE HAZARD MAP

Prepared by Moritz Arboricultural Consulting, 2008



- CH (h+) CHAPARRAL (highest)
- CS (h) COASTAL SCRUB (high)
- FPO (h+) FIRE-PRONE OAK WOODLAND (high)
- FPUF (h) FIRE-PRONE URBAN FOREST (high)
- FPUF (h+) FIRE-PRONE URBAN FOREST (highest)
- GR (m) GRASSLAND (moderate)
- MEF (h+) MIXED EVERGREEN FOREST (highest)
- MG (l) MOWED GRASS (low)
- RF (h) REDWOOD FOREST (high)
- US (m) URBAN SAVANNAH (moderate)
- VIN (l) VINEYARD (low)

DRAFT

Inventory of Land Suitable for Residential Development

Source: Portola Valley General Plan, Housing Element December 2009



Exhibit 7

Potential Affiliated Affordable Housing Sites



Potential Areas for Second Units



- PARCELS_**
- Existing Second Units
 - ▤ Areas Not Suitable for Second Units



0 1,200 2,400 4,800 Feet

Exhibit 9



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Chair and Members of the Planning Commission

FROM: Leigh F. Prince, Town Attorney

DATE: February 27, 2014

RE: State Density Bonus Law Implementation Ordinance

RECOMMENDATION: Receive a presentation regarding State Density Bonus Law (“SDBL” or “State Law”) and recommend holding a public hearing on an implementation ordinance.

BACKGROUND: As detailed in the report from the Town Attorney dated January 31, 2014, if an applicant meets certain threshold requirements, the Town must grant the applicant a density bonus and one or more incentives in accordance with State Law. SDBL requires the Town to adopt an ordinance that specifies how compliance with State Law will be implemented. Adopting an implementation ordinance would bring the Town into compliance with this requirement. However, compliance with SDBL is mandatory regardless of whether or not the Town adopts an implementation ordinance. An implementation ordinance does not provide any additional incentive for an applicant that is not already provided by State Law. The implementation ordinance would allow the Town to establish application requirements related to how the Town will process requests to utilize SDBL. Finally, adoption of an implementation ordinance would allow the Town to take advantage of streamlined Housing Element review.

DISCUSSION: Attached is a draft implementation ordinance. The draft ordinance specifies the application requirements associated with any request to utilize SDBL. The draft ordinance is designed to require applicants to pay for the cost of the Town to process and analyze any such applications. The draft ordinance requires the applicant to enter into an Affordable Housing Agreement. Finally, the draft ordinance addresses the design and quality of the affordable units and requires equal design and quality to the market rate units.

cc: Deputy Town Planner
Town Manager

ORDINANCE NUMBER _____

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PORTOLA VALLEY ADDING CHAPTER 18.17 [STATE DENSITY BONUS LAW] TO TITLE 18 [ZONING] OF THE PORTOLA VALLEY MUNICIPAL CODE

WHEREAS, the Town of Portola Valley (“Town”) desires to comply with California Government Code Section 65915 (“State Density Bonus Law”) which requires all cities to adopt an ordinance that specifies how compliance with State Density Bonus Law will be implemented; and

WHEREAS, the Town desires to take advantage of the streamlined review of the Housing Element offered by the California Department of Housing and Community Development (HCD) to cities that have, among other things, adopted an ordinance implementing State Density Bonus Law.

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

1. ADDITION OF CODE. Chapter 18.17 [State Density Bonus Law] is hereby added to Title 18 [Zoning] to read as follows:

**“Chapter 18.17
STATE DENSITY BONUS LAW**

Sections:

- 18.17.010 Purpose**
- 18.17.020 Definitions**
- 18.17.030 Applicability**
- 18.17.040 Application Requirements**
- 18.17.050 Discretionary Approval Authority Retained**
- 18.17.060 Affordable Housing Agreement**
- 18.17.070 Design and Quality**

18.17.010 Purpose

The purpose of this Chapter is to adopt an ordinance that specifies how Government Code Section 65915 (“State Density Bonus Law”) will be implemented.

18.17.020 Definitions

Unless otherwise specified in this Chapter, the definitions found in State Density Bonus Law shall apply to the terms contained herein.

18.17.030 Applicability

This Chapter shall apply to all zoning districts where residential developments of five or more dwelling units are proposed and where the applicant agrees to provide low, very-low, senior or moderate income housing units in the threshold amounts specified in State Density Bonus Law such that the resulting density is beyond that which is permitted by the applicable zoning.

18.17.040 Application Requirements

A. Any applicant requesting a density bonus, incentive(s) and/or waiver(s) pursuant to State Density Bonus Law shall provide the Town with a written proposal. The proposal shall be submitted prior to or concurrently with the filing of the planning application for the housing development and shall be processed in conjunction with the underlying application.

B. The proposal for a density bonus, incentive(s) and/or waiver(s) pursuant to State Density Bonus Law shall include the following information:

1. Requested density bonus. The density bonus proposal shall evidence that the project meets the thresholds required by State Density Bonus Law. The proposal shall include calculations showing the maximum base density, the number/percentage of affordable units and identification of the income level at which such units will be restricted, additional market rate units resulting from the density bonus allowable under State Density Bonus Law and the resulting units per acre. The density bonus units shall not be included in determining the percentage of base units that qualify a project for a density bonus pursuant to State Density Bonus Law.
2. Requested incentive(s). The request for particular incentive(s) shall include a pro forma or other report evidencing that the requested incentive(s) results in identifiable, financially sufficient and actual cost reductions that are necessary to make the housing units economically feasible. The report shall be sufficiently detailed to allow the Town to verify its conclusions. If the Town requires the services of specialized financial consultants to review and corroborate the analysis, the applicant will be liable for all costs incurred in reviewing the documentation.
3. Requested Waiver(s). The written proposal shall include an explanation of the waiver(s) of development standards requested and why they are necessary to make the construction of the project physically possible. Any requested waiver(s) shall not exceed the density bonus percentage to which the project is entitled pursuant to State Density Bonus Law and to the extent any requested waiver exceeds such percentage, it will be considered as a request for an incentive.

4. Fee. Payment of the filing fee in an amount set by resolution of the Town Council and payment of the actual costs of Town staff time spent reviewing and processing the State Density Bonus Law application submitted pursuant to this Chapter.

18.17.050 Discretionary Approval Authority Retained

The granting of a density bonus or incentive(s) shall not be interpreted in and of itself to require a general plan amendment, zoning change or other discretionary approval. If an incentive would otherwise trigger one of these approvals, when it is granted as an incentive, no general plan amendment, zoning change or other discretionary approval is required. However, if the base project without the incentive requires a general plan amendment, zoning change or other discretionary approval, the City retains discretion to make or not make the required findings for approval of the base project.

18.17.060 Affordable Housing Agreement

Prior to project approval, the applicant shall enter into an Affordable Housing Agreement with the Town to the satisfaction of the Town Attorney guaranteeing the affordability of the rental or ownership units for a minimum of 30 years and identifying the type, size and location of each affordable unit. Such Affordable Housing Agreement shall be recorded in the San Mateo County Recorder's Office.

18.17.070 Design and Quality

Affordable units must be constructed concurrently with market-rate units and shall be integrated into the project. Affordable units shall be of equal design and quality as the market rate units. Exteriors, including architecture and elevations, and floor plans of the affordable units shall be similar to the market rate units. Interior finishes and amenities may differ from those provided in the market rate units, but neither the workmanship nor the products may be of substandard or inferior quality as determined by the Town Building Official. The number of bedrooms in the affordable units shall be consistent with the mix of market rate units.

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

3. ENVIRONMENTAL REVIEW. This ordinance is not a project for the purposes of the California Environmental Quality Act.

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

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Town Clerk

By: _____
Mayor

APPROVED AS TO FORM:

Town Attorney

DRAFT UNAPPROVED MINUTES

REGULAR PLANNING COMMISSION MEETING, TOWN OF PORTOLA VALLEY, DECEMBER 18, 2013, SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chair Von Feldt called the Planning Commission regular meeting to order at 7:30 p.m. Ms. Kristiansson called the roll.

Present: Commissioners Arthur McIntosh, Nate McKitterick and Nicholas Targ (arrived late); Vice Chair Denise Gilbert; Chair Alexandra Von Feldt

Absent: None

Staff Present: Tom Vlastic, Town Planner
Karen Kristiansson, Deputy Town Planner
Craig Hughes, Town Council Liaison
Leigh Prince, Town Attorney

ORAL COMMUNICATIONS

On the eve of his last meeting on the Planning Commission, Commissioner McIntosh reflected on his years in Portola Valley. He said his family's reasons for moving here were like everyone's – the beauty, the quiet, open space, great schools. Professional pursuits in the real estate investment business led him to become interested in planned communities, which in turn led to the Planning Commission. Over the years, he said the experience changed his perspective of what this community's about and expanded his horizons. Stepping out of the box, he was able to work with a lot of people he might never have met otherwise. He said he felt a lot of satisfaction from what the Planning Commission has achieved for the community, ranging from approving simple grading permits to deliberating on a new Town Center.

Commissioner McIntosh said he also particularly appreciated the people he's worked with, including the extraordinary Town staff and employees, who are very committed, especially helpful and always exhibiting marvelous attitudes. He said he thinks of Mr. Vlastic and his predecessor, George Mader, more as brothers than consultants, and "a mainstay forever" whose contributions are hard to calculate. He also said he found volunteers on the Planning Commission, the ASCC and the Town Council extraordinarily competent and committed. Everybody cares, he said, and they care about the community. He said he found his experience on the Planning Commission gratifying, enjoyable and educational, and considers the Town a marvelous example of democracy in action at its most fundamental level.

Commissioner McKitterick said that Commissioner McIntosh's absence will be noted and the presence of the Town Center that he played such an important role in bringing to fruition will always be a reminder of his contributions.

Mr. Vlastic thanked Commissioner McIntosh for all his help not only interacting on various projects and the Town Center, but the practical view he's always brought to the decision-making process, balancing all sides fairly to the great benefit of the community and those who have been affected by the decisions.

Virginia Bacon said that she also wanted to thank Commissioner McIntosh and say that, as a neighbor, she appreciated his contributions.

Chair Von Feldt noted that Commissioner McIntosh will now have his Wednesday nights back for the first time in 14 years.

REGULAR AGENDA

- (1) Preliminary Review: Proposed Amendment to Conditional Use Permit (CUP) X7D-161, AT&T Mobility, 4115 Alpine Road

DRAFT UNAPPROVED MINUTES

Chair Von Feldt recused herself because she lives closer than 500 feet to the subject property and left the dais, handing the gavel over to Vice-Chair Gilbert.

Mr. Vlasic, referring to the December 12, 2013 staff report, noted that this item was originally scheduled for the Planning Commission's preliminary review with the ASCC at a site meeting on December 9, 2013. With a Planning Commission quorum lacking, that joint meeting will be rescheduled as a continued preliminary review on January 15, 2014. Mr. Vlasic said one neighbor uphill of the site, who has expressed concerns about the visual impacts and activities at the facility, apparently will be able to make his property at 50 Bear Gulch Drive available during that meeting. Mr. Vlasic also expects AT&T representative David Haddock, who is based in Sacramento, at the January meeting. Mr. Haddock is working on project input from ASCC, particularly focused on responding to questions Commissioners asked and making plan adjustments they requested.

As Mr. Vlasic explained, due to problems with service at the AT&T facility, some emergency activities have been underway at the site for the past several weeks, with encroachment permit authorization by the Public Works Director. He added that AT&T has been informed that the Town is becoming concerned with the scope of the effort.

The specific things ASCC attended to at its site meeting, Mr. Vlasic reported, included encouraging a redesign of the ground-based equipment so that it doesn't require fencing and doesn't interfere with the growing vegetation that AT&T planted as required by as a condition of its original CUP. The ASCC also requested that AT&T make the antenna proposed on the pole less obtrusive than the one there now, and make some other adjustments to minimize the potential visual impacts.

Considering the legal limitations on what the Planning Commission can do with regard to wireless facilities, Acting Chair Gilbert asked whether the Commission's review is basically limited to items that would affect the aesthetics of the installation. Mr. Vlasic said that if it were a new site with a new service base, the Town would have more latitude, but in this case, the answer would be yes, particularly because AT&T isn't proposing to expand to any additional service areas but primarily is upgrading from 4G to LTE service. The two antennae on the pole now, which are 4G-based, would remain until the user transition to LTE service is complete. This transition, Mr. Vlasic added, is industry-wide. To summarize, at this point the focus is on design aesthetics, clarification of improvements and addressing recurring maintenance issues, which have become almost a nuisance.

In response to Commissioner McIntosh, Mr. Vlasic said AT&T has not yet responded to some of the points the ASCC raised, such as relocating some of the ground facilities and changing the size or shape of the proposed T-bar. The AT&T engineers are discussing the adjustments. Mr. Vlasic said he believes the ground-based changes and controlling the amount of "spaghetti" coming out of the antenna are straightforward. How far the antenna can be pulled in may be more difficult.

Alexandra Von Feldt, Creek Park Drive, said that since the AT&T facility has been located at 4115 Alpine Road, the invasive weed called *Dittrichia*, often carried in by construction vehicles, has been popping up more and more at that site due to the increased activity. Measures to control this weed may need to be considered.

Commissioner McIntosh said that as long as the applicant addresses the issues raised by the ASCC, he did not think there was much more to say.

Commissioner McKitterick, noting that the proposal represents an important upgrade to cellular service on Alpine Road, said the ASCC seems to be on the right track in its comments regarding the visual impacts, including the fencing. He said he doesn't fully understand the rationale for weekend work on maintenance. Mr. Vlasic said this work would typically be done during the night if the Town ordinances allowed it, and carrier analysis (not only AT&T) indicates that cellular traffic is considerably higher during the week. Maintenance is therefore less disruptive on weekends, when cell usage is lower. Mr. Vlasic said the Public Works Director was asked to authorize the weekend work, because AT&T contends that fixing the problems they are having constitutes an emergency. Commissioner McKitterick said that if the Public Works Director is satisfied, he is also satisfied.

DRAFT UNAPPROVED MINUTES

Acting Chair Gilbert said the discussion at the December 9, 2012 meeting, included in the staff report, covered the gamut of aesthetic issues and the Town would need to wait for AT&T's response. Mr. Vlasic said Commissioners would receive an updated report prior to the January 15, 2014 meeting.

(2) Continued Study Session: 2014 Housing Element Update [7:50 p.m.]

Chair Von Feldt returned to the dais.

Ms. Kristiansson noted that the December 12, 2013 staff report includes four possible changes to the second-unit program and also describes the public outreach efforts the Town has taken, including postcards that went out last week, website updates and e-notifications. She said it would help tonight for Commissioners to further refine and prioritize the second-unit program ideas, choose two or three to present in the draft Housing Element, and identify items and issues to send to the ASCC for feedback. Discussion of the Housing Element is tentatively on the ASCC agenda for January 13, 2014 and any recommendations from the ASCC would be reported to the Planning Commission at their January 15 study session.

Ms. Kristiansson summarized the four possible second-unit program changes:

1. Offer residents a selection of pre-approved pre-fabricated green second units, with different design and size options, which would not require specific ASCC review. Ms. Kristiansson said it could take a year or two to obtain and finalize a set of pre-approved designs and develop performance standards to address issues that the ASCC would typically consider – e.g., siting, lighting, parking, etc.
2. Allow larger second units, up to 900 or 1,000 square feet, either on lots where they are currently allowed (basically lots of at least one acre in the one-acre zoning districts throughout Town) or on lots of two or more acres (primarily located in Westridge and Oak Hills neighborhoods).
3. Allow an additional second unit on larger properties (perhaps 3 or 3.5 acres or larger), which would enable them to have two second units, at least one of which would be attached. Ms. Kristiansson indicated that most parcels of this size would be located on the western hillsides or the Westridge neighborhood.
4. Allow attached second units on smaller lots, possibly with a floor-area maximum less than the current 750 square feet, with independently accessible onsite parking required. Possible locations might include Woodside Highlands, Wyndham Circle or Brookside Park as well as Portola Valley Ranch. Ms. Kristiansson said that representatives of the Ranch's homeowners' association (HOA) said that the HOA discussed the latter idea when a member of the Ad Hoc Affordable Housing Committee brought it up at an HOA meeting last spring. They agreed they did not want to pursue making changes to their CC&Rs to allow second units at this time.

Ms. Kristiansson said another idea discussed at the December 4, 2013 meeting, the idea of providing a floor-area discount as an incentive to encourage more second-unit production, might be considered in combination with any of these options.

Ms. Kristiansson said she hopes the results of the county-wide affordability study will be available for discussion at the next Planning Commission study session, which is scheduled for January 15, 2014. In addition to any second-unit updates, the inclusionary housing program and state density bonus law discussions will be on the agenda for that meeting. Vice Chair Gilbert asked Ms. Kristiansson to highlight areas that might be subdivided and thus subject to inclusionary housing provisions for the next study session.

Chair Von Feldt invited public comment, and said that she would list questions to be addressed by staff afterward.

Craig Hughes, Wayside Road, asked what latitude HOAs have to apply rules that would exempt them from allowing programs that would help the Town achieve Housing Element goals.

DRAFT UNAPPROVED MINUTES

Bill Volk, 199 Brookside Drive, said that he and his wife have some concerns about the new California building code adoption as it relates to patios and requires enclosure down to the ground.

Virginia Bacon, Golden Oak Drive, said Commissioner Targ made an important point at the December 4, 2013 Planning Commission meeting, when he noted that the Town is trying to accomplish two goals – meeting the Town’s Regional Housing Needs Allocation (RHNA) numbers and moving toward our vision of what we’d like to see the Town look like in the future. Ms. Bacon said these goals can be hard to separate because many of the suggested remedies touch on Portola Valley’s longer-term vision. For example, she said that awarding bonuses for second units would increase density, and the density question is a bigger issue that deserves more consideration than near-term objectives. The 85% rule in current ordinances already gives property owners choices for ancillary structures, she said. She also suggested considering how duplexes differ from attached second units. Ms. Bacon made several other points:

- Allowing basements beneath second units might be a way of increasing the size without increasing density
- Septic systems, which require limits on water use, also often need extensive drain fields and leach lines that would limit property area for development of second units
- She’s requested information from West Bay Sanitary District about the location of sewer lines throughout Town, which could help us better determine where potential exists for second units
- Having more than one utility access point on a property could help reduce the cost of developing second units

Ms. Bacon stated that the consequences of larger, maxed-out properties must be considered, and it should be determined district by district how many lots there are, how many homes are already at their maximums, and how close to capacity we are. She said that overall, more information about the Town’s housing stock is needed to be able to make intelligent decisions about how to move forward. Without it, “we’ll be throwing darts in the dark.”

Bud Eisberg, Wyndham Drive, who served on the Ad Hoc Affordable Housing Committee, said the Committee talked about Portola Valley’s 750-square-foot second-unit maximum vis-à-vis several similar communities: Woodside (1,500 square feet for rentals), Monte Sereno and Hillsborough (1,200 square feet) and Los Altos Hills (1,000 square feet). He stated we should consider second-unit size in the context of the fact that the Town needs moderate-income units. Addressing Mr. Hughes’ point, Mr. Eisberg said Committee members considered distributing affordable housing throughout the community important enough to have included that point in the Mission Statement they drafted. Mr. Eisberg said he’s disappointed to hear that a large group of homeowners might be unwilling to modify their Covenants, Codes and Restrictions (CC&Rs) to accommodate second units.

Kevin Webster, Westridge Drive, who has lived in Portola Valley since 1960, said that in keeping with the Town’s heritage as a rural community, it has no duplexes, apartments or condos, and he doesn’t see why there should be any. He expressed concerns about transforming single-family parcels into multi-family parcels. He said he lives next door to a property with a second unit that was built as a mother-in-law house, but subsequent property owners have used it as a rental unit, and he does not see this as in the nature of Portola Valley. He said he was also concerned about the possibility of a duplex on the former Shorenstein estate, which is across the street, and the additional traffic that would result from development of the property.

With no other speakers coming forward, Chair Von Feldt closed the public comment period and asked Ms. Kristiansson to respond to the questions:

- HOA and CC&Rs: Ms. Kristiansson said that she would check with the Town Attorney, but per her understanding, HOAs are limited by state law in what they can do with their CC&Rs, and provided they comply with state law, CC&Rs can be more stringent than their home jurisdiction. Mr. Vlasic said in the past, CC&Rs were typically required with the subdivision process to achieve certain objectives consistent with Planned Unit Development (PUD) provisions. The Town enforces only the PUD, not the CC&Rs. What’s unique about The Ranch, he said, are the design of the homes and properties and the parking layout. The PUD set forth a specific development pattern. Although the anticipation with the PUD was that only a primary residence would occupy each lot at The Ranch, he said, it does not rule out having a dialogue with the HOA if

DRAFT UNAPPROVED MINUTES

the Town wants to pursue it. In any case, he said, the Town would still have to look in detail in terms of siting and architectural requirements and parking provisions. Commissioner Targ added that CC&Rs could not be contrary to the public interest, and he would leave it others as to whether a change in Town ordinances could drive a modification to CC&Rs.

- Building Code: Ms. Kristiansson said questions about the the recently adopted Building Code, such as requirements related to patios, should be directed to Deputy Building Official Gary Fitzer.
- Basements beneath second units: Ms. Kristiansson said she did not think any regulations prohibit building second units with basements. Mr. Vlastic added that the basement could not be used to exceed the 750-square-foot maximum, even if the basement space doesn't count as floor area. The Town could amend the regulations to allow exceeding the maximum size of a second unit with the basement area included, he said, but that might result in all second-unit applications including basements because it would enable property owners to exceed the second-unit size without counting it toward floor-area limits.
- Overview of second-unit stock: Ms. Kristiansson said the data could be mapped, but it would be time-consuming and may not provide much more information than is already apparent on the Town's Zoning Map. She said the Town has 160 to 170 legal second units, all located on lots of at least one acre. Going to the Zoning Map, she pointed out the one-acre zoning districts, primarily Westridge, Oak Hills and the western hillsides.

Vice Chair Gilbert said it may not be important for the current Housing Element update, but over the long term, mapping out locations of second units might be useful in understanding the limits on the Town's capacity for second units before density becomes an issue. Ms. Kristiansson said a rough count about ten years ago indicated that there were somewhere around 1,000 lots in Town are large enough to accommodate second units, so the 160 to 170 second units are located on only a small percentage of that total. Topographical issues could prevent construction of second units on some of those lots, Mr. Vlastic said, but to adequately analyze site conditions to produce a more accurate picture would be time-consuming. Going from a base of approximately five to six permits being issued annually, he said the measures to encourage more second-unit production aren't likely to open the floodgates, and even increasing the allowable floor area wouldn't do so.

Commissioner McIntosh said the basement idea is interesting, in terms of improving existing basements to qualify them as second units, although he thinks most properties have no basements. In terms of The Ranch, there might be dialog over a period of years about bringing in a small number of second units, since some members of the community may be interested in having second units for caretakers. This would need to be handled with care, however, because the Ranch had been carefully designed for parking and traffic, and an influx of second units would make it a very different place.

Commissioner McIntosh asked how many of the 32 homes at Blue Oaks have second units. He also asked why tandem parking would not be permitted for second units on smaller lots. Mr. Vlastic said probably at least 30% of Blue Oaks lots contain second units. Ms. Kristiansson said other communities require onsite independent parking for second units in areas where street parking is tight, and prohibit tandem parking because it defeats the purpose of second-unit occupants having independent access to parking.

Chair Von Feldt reminded Commissioners that during their December 4, 2013 study session, they talked about prioritizing what they might try to do in the Housing Element update now, while also setting out steps that look forward to what we may explore to achieve longer-term goals. Working with The Ranch might be one of the areas to explore more.

In deciding which of the options to pursue, and how to flesh out the details of those options, Commissioner McIntosh advised that it's important to be cognizant that we don't want overshoot the target in producing second units, so we get what we need to meet (but not exceed) our RHNA obligation. Commissioner McKitterick agreed.

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Chair Von Feldt then invited Commissioners to review the four items and try to reach consensus on priorities:

1. Pre-approved green pre-fabricated green second units

Commissioner McKitterick asked whether this could be handled through the existing process, perhaps by simply referring people to a list of companies that provide such units. Ms. Kristiansson said the Town has received no such applications so far, but they are getting more popular in other communities, and the pre-approved designs to minimize the level of review might jump-start use of pre-fab second units here. Mr. Vlastic added that one reason we haven't seen many pre-fab structures in Portola Valley is likely that the Town doesn't have simple sites, and the expense of preparing a site can more than offset the savings in using a pre-fab structure. To address that issue, the Town may want to develop a framework that deals with some of the factors a property owner would have to take into account.

Commissioner McIntosh said the issue he struggles with is that most people building new homes would not be interested in pre-approved designs that aren't congruent what they're doing. Chair Von Feldt concurred, but noted that there may be merit in having the pre-approved pre-fab green unit option for situations in which the unit would complement existing homes.

Commissioner McIntosh agreed, suggesting that might be a solution for properties on Golden Oak Drive, for example, and there might be enough such properties in Town to make this option worth studying further. Ms. Kristiansson said most of the applications for second units tend to go with new homes, but there has also been an increase of applications for new second units to go with existing homes.

Commissioner McKitterick also said he would be concerned about waiving ASCC review of second units in favor of staff-only approval, because every site is different and no notice would be provided to neighbors. Mr. Vlastic said there may be ways, such as informal review by ASCC subcommittees, to streamline the process without losing track of key issues and achieve the goal of adding a few more units to help meet the Town's RHNA obligation.

Commissioner Targ suggested a Stanford graduate student concentrating on certain aspects of sustainability might spend a semester undertaking a study on this, which may lead to a program for Portola Valley and also a potential business opportunity.

If the Planning Commission wants to pursue it, Ms. Kristiansson said the pre-fab option might go in the draft Housing Element update as something we want to study. She said that based on the concerns raised, she doesn't think we could go much farther than that by the May 2014 deadline. Commissioners concurred with her suggestion.

2. Allow larger second units

Commissioner McKitterick said he would like this as a priority item, in part because he believes this was a recommendation of the Ad Hoc Affordable Housing Committee. He was influenced by the comparables from other communities, and Carter Warr commenting at the December 4, 2013 Planning Commission meeting that he thought allowing larger second units would encourage increased second-unit production. Commissioner McKitterick suggested moving maximum second-unit square footage from 750 to 1,000. Commissioner McIntosh agreed and said that the question is whether the additional 250 square feet should be allowed "free," without counting towards the Town's floor area limits.

The floor area part of the question aside, Chair Von Feldt said that for her, the larger second units (1,000 square feet) should be tied to lots larger than two acres. The other commissioners agreed.

As for the "bonus" space, Chair Von Feldt asked for thoughts on whether or not the extra 250 square feet should count toward the floor area maximum. Considering the ramifications, Commissioner McIntosh said that if the extra space isn't included in the floor-area count, it in effect would increase the floor-area limit on parcels of two or more acres, enhancing property values for those property owners who would take advantage of it. However, 250 sf would generally be a small percentage increase, and so it would not bother

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him. Mr. Vlasic said that most new homes are around 5,500 or 6,000 square feet, so it would be a small percentage increase. He said that it's hard to know whether offering a bonus would encourage people to take advantage of it because not everyone pushes to the upper limit. He also said that allowing a larger second unit – whether the additional space is treated as a bonus or counted against the existing floor-area maximum – seems that it would be worth the effort, and the Commission could come back to provide incentives if people don't take advantage of it.

Commissioner McIntosh said the bonus probably isn't necessary at this stage, because to meet the RHNA obligation, the Town needs only to add four additional second units over a three-year period. Vice Chair Gilbert said we may want to boost second-unit production a bit more than four over three years. Ms. Kristiansson emphasized that the numbers will depend on the results of the affordability study.

Chair Von Feldt suggested waiting to see how much other initiatives affect second-unit production, and reconsider the bonus if it appears necessary after a couple of years. In response to Commissioner McKitterick, Mr. Eisberg confirmed that the Ad Hoc Affordable Housing Committee discussed floor-area bonuses as a means of encouraging second-unit production, but there was not a consensus.

Commissioner Targ said if the additional 250 square feet would mean exceeding floor-area limits, the Town might consider viewing the additional space as a conditionally approved use to avoid making it a matter of right. Ms. Kristiansson commented that a CUP might be somewhat more onerous than the Commission would want to require, but the bonus decision could rest on ASCC making certain findings to accomplish the same purpose. Considering the objective of streamlining the process, Mr. Vlasic said it would be better to simply allow larger second units on the larger parcels, and if the response to that measure doesn't seem to have any effect, go back and consider the floor-area bonus question. He said that with new construction, architects can come up with plenty of creative solutions and design to accommodate larger second units without exceeding floor-area limits.

Commissioners agreed that allowing 1000 sf second units on lots over 2 acres in size without a floor area bonus should be incorporated into the draft housing element update.

3. Allow additional second units on larger properties

Commissioner McKitterick said factors such as parcel size and whether the additional units are needed to meet RHNA numbers should be taken into account, but that said, he favors the idea of allowing two second units provided that only one of them could be rented out. Commissioner McIntosh said that this would be difficult to enforce, and Commissioner Targ added that if only one could be rented, it would not help with the housing numbers. Commissioner McIntosh agreed, noting that if the parcels would have to be at least 3.5 acres and one of the units would have to be attached, he did not think there was a need to restrict rental of the units. He also pointed out that with a minimum parcel size of 3.5 acres, the maximum number of additional second units possible would be 29. Besides the 29 properties in Westridge, Ms. Kristiansson noted that there are others on the western hillsides and a few more scattered throughout Town, so there may be 50 or so in total.

Chair Von Feldt questioned whether changing the Town's standards in this way would be worthwhile given the relatively small number of parcels that would be affected. Commissioner Targ said he didn't think approving additional second units on larger properties would be incentive enough to make a difference, and he's not sure about how it would look – whether cozy or crowded. Chair Von Feldt said she imagined it would look pretty much the same from the street either way, because one unit would be part of the main house. Mr. Vlasic agreed, pointing out that homes already also have multiple access points, so even a separate entrance for an attached second unit wouldn't be unusual from a design point of view. Commissioner McIntosh said the process would be only slightly more complicated than what the ASCC already does.

Commissioners concurred that this item should remain among the options to explore.

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4. Allow attached second units on smaller lots

Commissioner McKitterick advised against pursuing this option at this time, except for longer-term discussions with the Ranch. Commissioner McIntosh said that would make sense to the extent that the Ranch is willing to discuss it. Other Commissioners also agreed.

In summary, Chair Von Feldt said Commissioners seem to coalesce around two programs to pursue for this Housing Element cycle (allowing larger second units on parcels of two or more acres, and allowing an additional second unit on parcels of 3.5 acres and more) and include discussion about further exploring two other programs (pre-approved green designs and second units on smaller parcels). Commissioner McKitterick said that for purposes of what the Planning Commission submits to the Town Council, it would be helpful to have ASCC's input on allowing larger second units and additional second units. Commissioner McIntosh and Chair Von Feldt said they'd like to have the ASCC's feedback on all four options.

In terms of public outreach, Commissioner McKitterick said he doesn't consider postcards effective, but PV Forum postings would be. Vice Chair Gilbert suggested that when the Town posts meeting notices for the coming week on the Forum, it might help to provide more color about the Planning Commission's study sessions on the Housing Element. Because Forum readers may not be inclined to dig into the agendas, Commissioner Targ suggested separate postings that are subject-matter related rather than meeting-related.

Commissioner Targ noted that on paper, Portola Valley seems to have more housing than it does people. He said he, and perhaps others, would find it helpful for future planning to have more data to better evaluate housing needs and work on a longer-term vision that aligns with the facts.

Ms. Kristiansson advised that while the Planning Commission has been focusing on the programs section of the Housing Element, behind the scenes, staff also has been assembling material for the section of the element that contains demographic data. This section will come to the Planning Commission as soon as it's ready, she said, and it may contain most of the information Commissioner Targ wants to see. In response to Commissioner McIntosh, she confirmed that the 2010 Census shows fewer residents in Town than the 2000 Census did.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS [9: 14 p.m.]

Commissioner Targ said he has heard concerns about the new fence on the former Shorenstein property, and he wanted to ensure that the Town is aware of the situation. Ms. Kristiansson said that Town staff has been talking with the property owners and their attorneys and asked for a plan to remedy a nonconforming fence that has been installed and resolve other questions. Mr. Vlastic said he has also been in contact with concerned neighbors. In response to Commissioner McIntosh, Ms. Kristiansson said the new owners purchased the property in July 2013.

Ms. Kristiansson asked Commissioners to send notes to Town Clerk Sharon Hanlon confirming their desire to continue as Planning Commissioners for 2014.

The next Planning Commission meeting will be on January 15, 2014.

APPROVAL OF MINUTES [9: 18 p.m.]

Commissioner McIntosh moved to approve the minutes of the November 20, 2013 Planning Commission meeting. Seconded by Vice Chair Gilbert, the motion carried 5-0.

ADJOURNMENT [9:20 p.m.]

Alexandra Von Feldt, Chair

Karen Kristiansson, Deputy Town Planner

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PLANNING COMMISSION MEETING, TOWN OF PORTOLA VALLEY, JANUARY 15, 2014, SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

The joint site meeting with the ASCC at 4115 Alpine Road, scheduled for 4:00 p.m., was canceled. Chair Von Feldt called the Planning Commission regular meeting to order at 7:30 p.m. Ms. Kristiansson called the roll.

Present: Commissioners Judith Hasko, Nate McKitterick and Nicholas Targ; Vice Chair Denise Gilbert; Chair Alexandra Von Feldt

Absent: None

Staff Present: Tom Vlastic, Town Planner
Karen Kristiansson, Deputy Town Planner
Jeff Aalfs, Town Council Liaison and Vice Mayor
Nicholas Targ, Planning Commission Liaison

Chair Von Feldt welcomed Commissioner Hasko to her first meeting since her Town Council appointment to the Planning Commission.

ORAL COMMUNICATIONS

Town Council Liaison Aalfs welcomed Commissioner Hasko and thanked her for volunteering.

REGULAR AGENDA

- (1) CONTINUED PRELIMINARY REVIEW: Proposed Amendment to Conditional Use Permit (CUP) X7D-161, AT&T Mobility, 4115 Alpine Road [7:31 p.m.]

Chair Von Feldt recused herself and left the dais because she lives within 500 feet of the property. Vice Chair Gilbert took the gavel as acting chair and invited Mr. Vlastic to give a staff update.

Mr. Vlastic said they had hoped to have the site meeting to consider the neighbor's concerns, as explained in the staff report and discussed at the Planning Commission's December 18, 2013 meeting, but the neighbor indicated today that he wasn't prepared to have anyone visit his property but would send a letter. He implied that his concerns focus less on visual intrusion than his general reaction to incremental changes at the site.

Mr. Vlastic said revisions received from AT&T yesterday appear to be very responsive to the ASCC's comments. AT&T has scaled back improvements on the ground and removed the fence. Two of the four new antennae are 4G, which will be removed when the LTE system is fully operational and 4G is no longer used. In response to Vice Chair Gilbert's question about the length of an antenna extending from the main pole, Mr. Vlastic said AT&T reduced it from six feet to five feet. The ASCC will review AT&T's revisions at a site meeting on January 27. Enough Planning Commissioners to form a quorum expressed a desire to attend that meeting, so the matter was continued to the 4:00 p.m. site meeting on January 27, 2014.

- (2) CONTINUED STUDY SESSION: 2014 Housing Element Update [7:36 p.m.]

Chair Von Feldt returned to the dais.

Ms. Kristiansson summarized the January 9, 2014 staff report describing the Town's existing inclusionary housing program. This program requires land or funds for below market rate (BMR) housing to be provided as part of a subdivision. In essence, the subdivision must set aside 15% of lots for BMR housing and in exchange receives a 10% density bonus for additional lots from the Town. Due to the difficulties getting housing built on the Blue Oaks lots, which were obtained via this inclusionary housing process, the Planning Commission has discussed potential changes in the past and particularly in 2003-2004. For instance, Ms. Kristiansson said a process whereby the Town might require less land but also require actual building of the BMR units is described

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on page 3 of the January 9, 2014 staff report and discussed in more detail in an attachment to the report. Referring to the key points of this process, which are summarized in the staff report (page 3), she said:

At this point, Ms. Kristiansson said only four parcels in Town (El Mirador, Spring Ridge/Neely, Fogarty and the Stanford Wedge) have the potential of providing seven or more lots if they were subdivided. Because no plans to do so are expected in the near future, she said this is a good time to reevaluate and modify the program. Still, she pointed out that an inclusionary housing case pending before the California Supreme Court could change the legal basis for such programs, by requiring a nexus study to document the relationship between market-rate development and the need for BMR housing.

Ms. Kristiansson said the staff report also discusses the California density bonus law. All California jurisdictions are required to adopt density bonus ordinances that meet certain parameters or defer to the state law. Although a density bonus ordinance would rarely come into play in Portola Valley, Ms. Kristiansson said another reason to consider adopting one is that the Town would qualify for streamlined review of its housing element if it had a density bonus implementing ordinance.

In terms of second units, Ms. Kristiansson said that at its meeting on January 13, 2014, the ASCC considered the potential changes to the second units program that the Planning Commission had discussed at its December 18, 2013 meeting. ASCC members had no issues with allowing either second units up to 1,000 square feet on lots of two acres or more or two second units on lots of 3.5 acres or more. They discussed in more depth the idea of pre-approving pre-fabricated green designs, and were uncomfortable about endorsing particular designs or particular manufacturers and also about the time and effort it could take to go through the process of sifting through designs for a list and then keeping the list up to date. As an alternative, the ASCC proposed possible staff-level approval of guest houses up to 750 square feet, rather than the current ordinance which allows staff approval of second units up to 400 square feet. Additional performance standards could potentially be added to those currently in place as part of this.

Ms. Kristiansson also pointed out that tonight's agenda packet includes a 21 Elements affordability study draft. The numbers are fairly close to those in the 2009 Housing Element, she said, which is good because those are the numbers we've been using for projections for the updated Housing Element. The study is currently being reviewed by the state. Ms. Kristiansson said Planning Commissioners would be provided with an analysis of the numbers vis-à-vis the different income levels and the Town's Regional Housing Needs Assessment (RHNA) numbers for their next Housing Element study session on February 5, 2014.

Commissioner Targ asked how streamlining review of the Housing Element (by adopting a density bonus ordinance) would be advantageous. Because it would be a new program, Ms. Kristiansson said she's speaking theoretically, but essentially the state has said that they would accept a red-lined version of the last certified element showing the changes for the updated document, along with page number references for required information. The state would review only the substantive changes, rather than going through the entire document and questioning or commenting on everything.

Vice Chair Gilbert asked whether there would be time to get an ordinance in place before the Housing Element submission deadline. Ms. Kristiansson, noting that she discussed it with Town Attorney Leigh Prince, said drafting the ordinance would be fairly straightforward and should be possible to do within the schedule.

Commissioner Targ inquired whether the countywide nexus study that Ms. Kristiansson mentioned earlier would produce sufficiently precise data to be useful in demonstrating the relationship between market-rate development and the need for BMR housing in Portola Valley in particular. Ms. Kristiansson said that although the study would cover the entire county, it also would include separate components for each jurisdiction within the county to provide the precision necessary.

In response to Commissioner Hasko, Ms. Kristiansson said the decision to opt in for this information would have to come from the Town Council, and there was not time to do that before the study got underway. Still, she said it could be done now at a somewhat reduced cost savings.

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Chair Von Feldt asked for confirmation that the inclusionary housing discussion pertains solely to four properties. Ms. Kristiansson said that both she and Mr. Vlasic believe Portola Valley has only these four properties that could reasonably be subdivided into seven or more lots; with seven lots, a 15% set-aside equals one lot for BMR housing. If its tentative map expires (in mid-2015) and the applicant comes back with another subdivision proposal with similar density, Sausal Creek could be a fifth. However, Ms. Kristiansson added, properties that could be subdivided into fewer than seven lots would contribute in-lieu funds instead of real property.

Considering the timelines involved in Housing Element cycles and property development, Chair Von Feldt asked how long the data in a nexus study would be valid. Ms. Kristiansson said that recent nexus studies she's seen included automatic adjustments based on cost of living, building cost index or some other measure to keep them as current as possible for a longer period.

Chair Von Feldt asked whether a minimum number of units must be developed to trigger the state's density bonus. Mr. Kristiansson said she believes it is five units. She also said that the law is fairly prescriptive, and thus probably doesn't provide much leeway for adjustment to the Town's particular circumstances. The flexibility available could be in terms of incentives, such as reduced parking requirements, and the ability to control the process.

Vice Chair Gilbert asked whether reducing the requirement for BMR housing from 15% to 10% of the lots – which would mean one BMR lot in a 10-lot subdivision – would affect the number of Town properties that could be subdivided. Ms. Kristiansson said she didn't think so, because all four of the parcels would accommodate between 20 and 30 lots.

Chair Von Feldt invited public comment, and said that she would consolidate comments/questions for response afterward.

Virginia Bacon, Golden Oak Drive, requested clarification of a statement in the staff report that said the a PUD may include up to four inclusionary units per lot. She also questioned a staff report statement about the second-unit program, which noted that the 21 Elements Affordability of Second Units Study is based in part from data from craigslist. She asked how craigslist would have identified those second units. Ms. Bacon also inquired about the use of deed restrictions and their effect on property valuations over time.

Bud Eisberg, Wyndham Drive, said it's important that any inclusionary housing in Portola Valley's future be built in conjunction with a subdivision development to ensure that it will be built. In terms of the density bonus, he said everyone needs to understand what that means and under what circumstances it could become a slippery slope, leading to loss of control over zoning restrictions.

Vice Mayor Aalfs asked whether the Planning Commission would be addressing the issue of the use of the proceeds from the sale of the Blue Oaks lots.

Phil Vincent, who's lived in his 165 Portola Road home for about 35 years, recalled the controversy over the proposed Nathhorst development and said he had several issues to discuss. As for second units, he said we need an inventory and a specific definition that either includes or excludes "breakout" bedrooms. We also need to evaluate the balance between regulation versus privacy, and the income tax implications of renting second units, he said. Mr. Vincent also raised the issue of local government rights versus state and federal rights, noting that the lines aren't very clear and communities aren't all the same. He said that needing a certain percentage of BMR units seems to be a "done deal," but there are alternatives as well as ways to change the law. One alternative is building our share of affordable housing in other communities. Mr. Vincent also pointed out that people don't necessarily want to live where they work; he recalled years of commuting to San Jose and San Francisco from his Portola Valley home. Mr. Vincent noted that the density issue was very important during the Nathhorst situation. He also noted that eventually the developer managed to get out of the commitment to build BMR housing in the Blue Oaks Subdivision.

Louis Ebner, Wyndham Drive, asked about the rationale for wanting to reduce the inclusionary requirement from 15% to 10%. He also said the density bonus is not just a density bonus but also a menu of incentives, and we must be really clear on the implications of this developers' "Trojan horse." He said we may be flexible in the

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intensity of our demands; for instance, we may concede a density bonus but refuse to consider any exceptions to height limits, or setbacks, or some other aspects. Mr. Ebner said it would be helpful to know the legally defined brackets within which the Town can work. He said he would prefer to see a posture on the part of the Town Council and Planning Commission that is closer to being dragged kicking and screaming into compliance rather than bending over for it. The Town needs to understand the law and exactly what we would be getting into.

Virginia Bacon said she understands what Mr. Ebner said, but we are employers, and the cheapest house in Portola Valley currently is \$5.4 million. We must be realistic and consider how we can work as a community to provide housing for people of different income levels.

Chair Von Feldt summarized the questions, and Ms. Kristiansson responded. She explained that with the current inclusionary housing program, the PUD determines the number of units, which could be up to four per lot. At Blue Oaks, it was two units. She said the 21 Elements report looked for certain terms in craigslist to signal second units – the terms “in-law,” “granny” and “attached,” for example. She said also that a couple of people have asked about the possibility of subdividing lots, but have not officially applied. In terms of deed restrictions, Ms. Kristiansson said it’s a complicated subject. She said the ones she has seen do not allow market-rate appreciation of the units; if you buy a BMR unit you must understand that going in. When the owner of a BMR unit with a deed restriction sells the property, it must be sold at a sum considered affordable to a moderate-income household – as it was when it was first purchased. Those sums are based on state income levels determined at the county level, e.g., \$123,600 annual income for a family of four for a three-bedroom home, with 30% or 35% of income available for housing, backed out at current interest rates to determine the mortgage amount.

Mr. Kristiansson said the rationale for reducing the inclusionary housing requirement from 15% to 10% was that developers also would be required to actually build the units, rather than simply providing land as they did in the past. In terms of the Blue Oaks sale proceeds, Ms. Kristiansson said that tonight we’re trying to focus on inclusionary housing and the related density bonus. She said discussion of the funds is a bigger issue that should be covered in a widely noticed meeting.

Chair Von Feldt brought the matter back to the Commission for comments on the inclusionary housing program.

Commissioner McKitterick said we should hold developers responsible for building the units, which seems consistent with the recommendations of the Ad Hoc Affordable Housing Committee and appropriate also considering the Town’s experience with Blue Oaks. To Mr. Ebner’s comment, he added, we should make sure our guidelines are set up so that the Town retains the maximum amount of control over what the developer builds. In response to Commissioner Targ, he said he’d be cautious about it, but willing to consider an in-lieu fee. However, as Commissioner McKitterick pointed out, the idea of the Town receiving land for affordable housing has proven to be non-viable, and he would like to have a direct link between the subdivision and the affordable housing location. Commissioner Targ said that receiving in-lieu funds also would be less in keeping with the Town’s small-government ethos. Ms. Kristiansson advised that the Town would probably need some provision for in-lieu fees for fractional lots.

Commissioner McKitterick said that the Town could revisit the idea of in-lieu fees if state law changes and enables the Town to take an in-lieu fee and pay something to the state or build affordable housing in another jurisdiction.

Commissioner Targ asked whether the state imposes any restrictions on the use of in-lieu fees. Ms. Kristiansson said the only prescription she is aware of is in the Town’s ordinance: “The in-lieu fee shall be placed in a special housing fund for use solely for affordable housing.” Considering the nexus issues that have come up in Palo Alto and San Jose, Commissioner Targ also expressed interest in knowing how much flexibility the Town could build into the use of the fees.

Mr. Vlasic said that the Town’s experience in inclusionary housing has been pretty much confined to Blue Oaks, although limited amounts of in-lieu funds have been paid in as well. Going forward, he said that BMR housing should be part of the infrastructure of a subdivision, and the Town program should include provisions for management of the units by an appropriate entity outside the Town. Commissioner Hasko added that this would

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also be consistent with what the Ad Hoc Affordable Housing Committee recommended. Mr. Vlasic advised that one of the objectives of the inclusionary housing program, as well as the second units program, was to disperse affordable housing throughout the community.

Commissioner McKitterick asked whether state law sets a limit as to the percentage that could be required under an inclusionary housing program. Ms. Kristiansson said the State does not set a limit, and the Town could specify that 20% of the units in a development be BMR. She noted that most communities require 10% - 20%. Mr. Vlasic said the key is to come up with a total that balances the Town's responsibility with the number of units that could conceivably be developed – although it wouldn't happen within this next Housing Element cycle.

Ms. Kristiansson said when the inclusionary program was discussed in 2004, former Planning Commissioner Arthur McIntosh spoke with some developers about the feasibility of development with certain percentages for BMR housing. Commissioner Targ said that in San Francisco, the figure is basically at least 20%, and in Emeryville, it's in the neighborhood of 15%, although he noted that Emeryville is about to change its ordinance. Ms. Kristiansson said that if the Planning Commission decides to pursue revisions in the inclusionary housing program, it would want to recommend participation in the nexus study to the Town Council to come up with the appropriate market-rate data. She also pointed out that in the Housing Element itself, the Town wouldn't necessarily have to specify a percentage but could simply explain the direction we're heading. Commissioner McKitterick said he didn't have a sense of what the percentage should be, and he needs a better understanding. Commissioner Targe said that he thought the Town needed the nexus study. Ms. Kristiansson said that although nexus studies have not been needed for inclusionary housing programs in the past, recent and current court cases suggest that this might change.

In response to a further question from Commissioner McKitterick, Ms. Kristiansson said that Woodside doesn't have an inclusionary housing program, nor does either Hillsborough or Atherton. The reason, she said, is that developers build entire subdivisions on spec in most places with inclusionary housing programs.

At this point, Ms. Kristiansson said that with a commitment to participate in the nexus study, the cost to the Town would be approximately \$20,000. Commissioners agreed to recommend that the Council approve this expenditure, so that the Town would at least have the option to explore an inclusionary housing program that would be based on realistic data. The Commission also felt that it would be best to have developers build the units and to only allow in-lieu fees for fractional units.

Discussing changes proposed for the inclusionary housing program in 2004, Vice Chair Gilbert asked whether the proposal to require 10% of the lots for BMR housing rather than 15% would be in addition to the state's 10%. Ms. Kristiansson said no; at the time this was proposed, it was essentially to give the developer the option to choose either the inclusionary housing program or the density bonus program – one or the other but not both. Ms. Kristiansson emphasized that the density bonus law refers to units and homes whereas the Town's inclusionary housing program referred to land.

Commissioners turned their attention to the density bonus law. If the Town adopts its own density bonus ordinance rather than deferring to the state law, Vice Chair Gilbert asked whether it would be necessary to provide the bonus and at least one of the concessions or incentives listed in Program 7, Section 2486a, attached to the January 9, 2014 staff report. Ms. Kristiansson said yes; these incentives could be one of the following:

- Modification of standards such as setback, square footage limits and parking requirements
- Approval of mixed-use zoning if compatible with development in the area and doing so would reduce the cost of the housing development
- Other incentives or concessions that result in identifiable cost reductions

In response to discussion about the Town's prerogative to establish its own incentives, Ms. Kristiansson said she would check with the Town Attorney to determine how much discretion the Town would have, and how having its own ordinance might affect the Town's ability to exercise control. With that kind of understanding, Commissioners directed that there should be a couple of working sessions on the state density bonus law, perhaps with the Town Attorney, to make sure that everyone understands the law before moving ahead.

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Chair Von Feldt brought the Commission's attention to ASCC comments about the second-unit program. Mr. Vlasic said his sense was that the ASCC thought a manufactured or modular structure may be fine if it meets all the performance standards, but it would be wrong to penalize applicants who design their own units that meet those same standards. In other words, the ASCC would prefer to focus on ensuring that second units meet carefully crafted performance standards rather than use any particular design or series of designs. Mr. Vlasic pointed out that the standards could even include provisions for notifying neighbors, albeit without a formal hearing process. Vice Chair Gilbert clarified that the ASCC also wanted to authorize staff-level approval for second units up to 750 square feet rather than the current 400 square feet maximum. Issues such as grading and tree removal already require staff to bump certain applications up for ASCC review, Mr. Vlasic added.

In response to Commissioner Targ, Ms. Kristiansson said the idea of staff-level review for 1,000-square-foot second units on larger lots has not yet been addressed, either by the ASCC or the Planning Commission. Chair Von Feldt suggested taking one step at a time, setting the staff-level authorization at the 750-square-foot maximum at first, and seeing how that goes before expanding it to the larger second units.

Looking toward to the next study session, Ms. Kristiansson confirmed that the Planning Commission will move forward with the inclusionary housing program and density bonus ordinance issues, as well as work on the affiliated housing program and RHNA numbers in the context of the 21 Elements affordability study.

(3) ELECTION OF CHAIR AND VICE CHAIRPERSONS [8:48 p.m.]

Chair Von Feldt reviewed the history of Planning Commission Chair and Vice Chair appointments since 2005, asking fellow Commissioners whether they thought the cycle should be more predictable, as it is with the Town Council. Commissioner McKitterick said he's not fond of the rotation for Mayor on the Town Council, but noted that he would like to see Commissioners Targ and Hasko rotate at some point into the Chair and Vice Chair roles. Vice Chair Gilbert noted that everyone has different styles, and to get entrenched in one style may not make sense. Holding the Chair and Vice-Chair positions also provides a greater understanding of how the Commission works, issues we cover and our relationship with the public. It can be useful even for people who have some reluctance to take on the job, she said.

Commissioner McKitterick said that Mayor Ann Wengert told him she would like to see the Planning Commission Chair change every year and assume that under most circumstances the Vice Chair would progress to the Chair position the next year. While he does not like the way it's done with the Mayor's position, he said he does favor the idea of the Planning Commission Vice Chair willingly taking on the role on the assumption that he or she will then serve as Chair and the rest of the Commission supports that.

Commissioner McKitterick nominated Vice Chair Gilbert to be Planning Commission Chair for 2014 and Commissioner Targ to be Vice Chair. Seconded by Chair Von Feldt, the motion carried unanimously.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS [9: 28 p.m.]

Ms. Kristiansson said that at their January 13, 2014 meeting, the ASCC visited the Villa Lauriston site at 5050 Alpine Road, a private property in the Upper Alpine Hills, where illegal clearing of about 19 significant trees on approximately an acre of land had taken place. Some members of the Town Council and Conservation Committee joined them. The ASCC approved a restoration plan, with a number of conditions including the planting of acorns and additional redwoods. In response to Commissioner Targ's comment about the length of time it would take to grow trees from acorns, Vice Chair Gilbert noted that the terrain is not favorable for putting in container plants. Ms. Kristiansson said that in addition to the plantings, there are provisions for a bond, emergency erosion control, above-ground drip irrigation and periodic monitoring as part of the remediation.

In response to Chair Von Feldt, she explained that the current ordinance does not provide for significant fines on clearing on private property. Although in this instance, no open space preserves are involved, due to the location of the property near Jones Gulch, some state agencies, including California Department of Fish and Wildlife, are involved. Mr. Vlasic said the ASCC asked the Town Council to work with the Town Attorney to see if any additional penalties are possible under the circumstances.

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Because the clearing at Villa Lauriston and an earlier clearing on Redberry Ridge were both done by contractors rather than the owners themselves, Commissioners asked what could be done to prevent such violations in the future. Ms. Kristiansson said one possibility would be to send letters to all landscaping firms and other contractors advising them that when they accept work in the Town, they are responsible for making sure before they begin that their work complies with Town regulations, whether it's cutting down a tree, putting up a fence or build an addition for a house.

Ms. Kristiansson advised Planning Commissioners that the League of California Cities' annual "Planning Commissioners Academy" conference will be held in Burlingame this year. It's scheduled for March 26-28, 2014, at the Marriott San Francisco Airport Waterfront Hotel.

APPROVAL OF MINUTES [9: 41 p.m.]

Commissioner McKitterick moved to approve the minutes of the December 4, 2013 Planning Commission meeting, as amended. Seconded by Commissioner Targ, the motion carried 4-0-1, Commissioner Hasko abstaining.

ADJOURNMENT [9:43 p.m.]

Alexandra Von Feldt, Chair

Karen Kristiansson, Deputy Town Planner

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PLANNING COMMISSION REGULAR MEETING, TOWN OF PORTOLA VALLEY, FEBRUARY 5, 2014,
SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chair Gilbert called the Planning Commission meeting to order at 7:30 p.m. Ms. Kristiansson called the roll.

Present: Commissioners Judith Hasko, Nate McKitterick and Alexandra Von Feldt; Vice Chair Nicholas Targ; Chair Denise Gilbert

Absent: None

Staff Present: Tom Vlastic, Town Planner
Karen Kristiansson, Deputy Town Planner
Leigh Prince, Town Attorney
Jeff Aalfs, Vice Mayor and Council Liaison

ORAL COMMUNICATIONS

None.

REGULAR AGENDA

- (1) Public Hearing: Proposed Amendment to Conditional Use Permit (CUP) X7D-161, AT&T Mobility, 4115 Alpine Road [7:31 p.m.]

Commissioner Von Feldt recused herself and left the dais because she lives within 500 feet of the subject property. Vice Chair Targ explained that his law firm represents AT&T in high-speed internet cases in San Francisco but he is not personally involved, and asked whether he should recuse himself as well. Ms. Prince advised that it was unnecessary to recuse himself since this did not appear to be a direct conflict of interest.

Mr. Vlastic explained that the January 29, 2014 staff report provides background, including discussion of preliminary reviews by the Planning Commission and the ASCC, efforts to hold a joint site meeting with a concerned neighbor at 50 Bear Gulch Drive, modifications to the plans in response to ASCC input, and the ASCC's evaluations of the changes. The changes include removing proposed fencing around ground-based equipment and relocating ground-based cabinetry. Mr. Vlastic said the Bear Gulch neighbor is out of town and unable to attend tonight's meeting.

Mr. Vlastic advised that at this point, the Town's control is basically limited to aesthetic considerations and management of site conditions. The conditions of approval include those that remain relevant from the 2010 approval, he said, plus others that focus specifically on the revised plans, the manner in which work is to be done, maintenance, work scheduling, encroachment permit requirements, additional landscaping requirements and ASCC review of plantings and site conditions within 18 months of the building permit sign-off.

Chair Gilbert opened the public hearing. No one came forward.

Commissioner McKitterick asked about regulating emergency work at the site. Mr. Vlastic explained that per the conditions, before a permit is issued, AT&T will need to articulate emergency procedures to be followed in all future circumstances. If they can't follow those procedures for some reason, the Town wants sufficient notice to be able to share the information with neighbors. AT&T also is to provide a detailed construction schedule of the proposed changes so the Town can notify neighbors.

Commissioners discussed the project and agreed that the modifications were responsive to the concerns expressed earlier. In addition, the project appears to minimize aesthetic impacts as much as possible and may improve the aesthetics overall. The conditions of approval will also begin to address the neighbor's concerns.

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Vice Chair Targ moved to find the proposed CUP amendment categorically exempt under the provisions of the CEQA Guidelines pursuant to Sections 15301 (existing facilities) and 15305 (minor alterations to land-use limitations). Seconded by Commissioner McKittrick, the motion carried 4-0.

Commissioner McKittrick moved to make the findings required by Section 18.72.130 of the Municipal Code and set forth in the January 29, 2014 staff report, and approve the proposed CUP amendment application as set forth in Resolution No. 2014-1. Seconded by Commissioner Hasko, the motion carried 3-0-1 (Targ abstained).

Commissioner Von Feldt returned to the dais.

- (2) Request for Waiver from Town Utility Undergrounding requirements, 151 Cervantes Road, Forrest Linebarger [7:48 p.m.]

As indicated in her January 30, 2014 staff report, Ms. Kristiansson said Town Ordinance 1990-256 requires that whenever an electric service box is moved, the overhead utility lines must be undergrounded to the nearest utility pole. Because it would require undergrounding nearly 170 feet to the nearest pole, the estimated cost to comply at the Cervantes Road residence would be more than \$66,000. As Ms. Kristiansson noted, that's substantially higher than the \$37,000 cost of Mr. Linebarger's project, which includes remodeling the kitchen and enclosing the carport at 151 Cervantes Road. The existing service panel, currently located within the carport, must to be moved outside the newly-enclosed garage for emergency access. Mr. Linebarger also said mature trees would likely suffer root damage with undergrounding work. The larger trees are pines, he said, and there a number of smaller oaks, which he believes are blue oaks. Ms. Kristiansson said the existing overhead lines are not visible from neighboring properties, and trees along the driveway and Cervantes Road screen the views of the lines from the right-of-way. Taking the cost and view considerations into account, she said it seems reasonable to grant the exception requested.

Ms. Kristiansson then noted that Municipal Code Section 18.36.010.B.9 allows the Planning Commission to waive undergrounding requirements for individual properties if it finds the installation infeasible or impracticable, but those terms aren't defined. However, a 1974 policy statement says that the decision would be based on "an evaluation of the benefits to be derived by requiring . . . against the burdens being imposed." She also summarized the history of exceptions to the Town's undergrounding requirements and mentioned that staff started developing a policy to provide more guidance as to when exceptions should be granted, but a draft policy was never brought forward to the Planning Commission. Ms. Kristiansson said the Commission might want to consider whether it is appropriate to reconsider developing that policy.

Commissioner Targ said that in his opinion the words "feasible and practicable" are generally used to mean whether something was physically possible in an engineering sense, but he is aware of some legal decisions in which these words are used to include a limited cost-benefit analysis. Commissioners agreed that the wording should be clarified.

In response to a Chair Gilbert, Ms. Kristiansson said that under normal circumstances, the need to consider the relocation of the electric panel would have been flagged before a permit was issued, but in this instance the electric panel was not noted on the plan and remodeling was already underway when Deputy Building Official Gary Fitzer noticed during a routine inspection that the electrical main service was inside the carport and would have to be moved and raised to provide emergency access. Mr. Linebarger took full responsibility for failure to realize the electric panel would be an issue.

Commissioner Targ asked about the trees that would be impacted. Ms. Kristiansson said that there were some pines or firs and some oak trees that could be affected by a trench from the garage to the pole. She shared some pictures of the trees with the Planning Commission. Commissioner Von Feldt commented that undergrounding the line would likely compromise some live oak trees, including some that could be close to significant size.

After some discussion, Commissioners agreed that the undergrounding could have the potential to affect some oak trees and would be infeasible based on a limited comparison of costs and benefits.

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Commissioner Hasko moved to grant the exception to Town Ordinance 1990-256 in respect to undergrounding utility lines in connection with the project at 151 Cervantes Road. Seconded by Vice Chair Targ, the motion carried 5-0.

Commissioners discussed whether the Town should craft a policy or ordinance amendment for guidance in the future. Commissioner McKitterick said that he would want more guidance from the Town Council as to what should be considered. Ms. Kristiansson advised that it could be helpful if staff could grant exceptions under certain clear-cut circumstances, with other requests to be considered by the Planning Commission. She noted that whether the guidance is provided by a policy or by an ordinance amendment, the Town Council would be involved for input and signoff. The Commission agreed that this should be a future work item for the planning program.

(3) Follow-up Study Session: Portola Road Corridor Plan [8:13 p.m.]

Ms. Kristiansson provided a brief summary of her January 30, 2014 staff report on the discussion of four particular issues in the draft Corridor Plan at the joint meeting of the Planning Commission and Town Council on January 22, 2014, and possibilities as to how to address those in the revised plan. Commissioners discussed each item in turn.

Section 6404, Section 1: "natural views" – Commissioners were satisfied with striking the word "natural," so it now reads: *To protect or reestablish open views within and from the corridor, especially to the western hillsides, wherever possible while preserving valuable habitat and variety of experience for all users.*

Section 6406, Standard 4: thinning vegetation and opening views – Commissioners discussed whether the word "balance" implies equality, and there was consensus that opening views in the corridor is the primary objective envisioned both by the Task Force and Town Council. There also was consensus that retention of vegetation for trail users should be a secondary consideration, with attention to providing a varied experience for trail users, although Commissioner Hasko expressed concern about implying that trail-user considerations are secondary. It also was pointed out that "preserving" carries connotations beyond what seemed intended.

The commission agreed to re-word this standard as follows: *The town should thin or remove vegetation in the right-of-way in order to open views as a primary goal, retaining enough vegetation to provide a varied experience for trail users. These evaluations should be made on a case-by-case basis using input from the various committees and other community interests in town.*

Section 6406, Standard 5 – Although it wasn't on the discussion list from January 22, 2014 joint meeting with the Town Council, the Commission also agreed, after a brief discussion, to change this standard to read: *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, agricultural uses ~~existing orchards~~ and open fields.*

Section 6406, Standards 6 and 7: undergrounding utility lines – The Planning Commission agreed to use the first option which was presented for the draft Corridor Plan:

Standard 6: Undergrounding utility lines along the corridor is desirable and should be considered.

Standard 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.

Section 6413, open and undeveloped view from the corridor – Following the January 22, 2014 meeting, staff added "consistent with the other provisions of this general plan" to Section 6413. After considerable discussion about views, viewsheds, lands, protection and development, Commissioners agreed to strike the rest of that sentence. They agreed to the following wording:

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

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parcels contain some of the most ~~significant~~ magnificent 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.

The Commission also asked staff to consider possible changes to this section given the context of the General Plan and the relationship to the Land Use Element in particular. Because the changes are expected to be minor, Chair Gilbert said they could be considered during the public hearing rather than having to come back to the Commission before that.

Public comments were requested.

Judith Murphy, Portola Green Circle, who represented the Conservation Committee on the Portola Road Corridor Task Force, commented on Section 6406, Standard 4. Among other things, she said Task Force members wanted to be certain that the trail experience was considered, but their strong consensus was that the primary goal would be opening the view. She was disappointed that “habitat” was lost in the re-wording but otherwise liked the changes. In terms of Section 6413, Ms. Murphy reiterated that the view came up over and over again in the Task Force’s discussions, and although it might be redundant, she said she would prefer to restore the phrase the Commission decided to strike (“so that the view from the corridor remains largely open and undeveloped”), and in fact said the redundancy was desirable in this instance.

On 6413, Craig Hughes, Town Council Liaison, said the question is what we’re trying to protect – the view or the viewshed. He noted that the view is the area closer to the road, while the viewshed is everything that is seen. Since other parts of the general plan protect the viewshed, he suggested that the Portola Road Corridor Plan should focus on protecting the view.

Chair Gilbert said the next step would be for staff to put all of this together and bring it back to the Planning Commission for a public hearing.

(4) Continued Study Session: Housing Element Update Program [9:00 p.m.]

Chair Gilbert noted three specific topics listed in the January 30, 2014 staff report to cover during this study session:

1. Updated analysis of the Town’s Regional Housing Needs Assessment (RHNA), given the 21 Elements study of the affordability of second units and current second-unit production rates
2. A discussion of Affiliated Housing, including reports on conversations last year between staff and representatives of The Sequoias and the Priory, and the Ad Hoc Affordable Housing Committee’s recommendation for expansion of that program, to possibly allowing Affiliated Housing on commercial and large agricultural properties as well as institutional properties
3. Follow-up information on the State Density Bonus Law (SDBL)

Ms. Kristiansson provided an overview of the key points of the January 30 staff report.

RHNA Update: Although the state hasn’t yet approved the 21 Elements study, Ms. Kristiansson said the staff report includes numbers based on the more conservative affordability proportions. On that basis, if the Town increases second-unit production to six units per year on average, second units would provide all but three low-income and five moderate-income units. As a result, she said it appears likely that the Town could meet its RHNA requirements through a combination of the second-units program and affiliated housing, which would provide time to explore other options without being under time pressure.

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In response to questions, Ms. Kristiansson said that:

- Typical market-rate development would provide most above-moderate income units.
- Although second-unit production rates vary from year to year, the numbers have been increasing over the past three years
- Because Housing Element law requires *planning* for the required number of units and making it possible, the state does not penalize the Town for fact that the Priory has not yet actually built the units that the Town approved as part the Priory's master plan
- She chose "Type 2" on the table in the staff report as the more conservative figure on which to base Portola Valley's numbers, because adding extremely low, very low and low comes to 85% for Type 1, whereas the Type 2 comparables add up to 70%
- If we ask, the state is likely to allow the Town to count extremely low income units toward very low-income levels (or higher) instead

Affiliated Housing: Noting that this program had been called the Multifamily Housing Program in the 2009 Housing Element, Ms. Kristiansson reiterated that the Priory already has approval for 11 homes, including some that would be affordable to low or moderate income households. The Sequoias has expressed interest in providing employee housing and is exploring its options, she said, but site constraints pose a challenge. At this time, Stanford has no plans for the Stanford Wedge.

In terms of the Ad Hoc Affordable Housing Committee's idea to expand the Affiliated Housing program, Ms. Kristiansson said state law already requires allowing employee housing on larger agricultural properties, but at this time, it isn't currently allowed in commercial and office parts of town. In response to a question about the potential number of such properties in Town, Mr. Vlasic said there may be eight to 10 in the Nathhorst Triangle area and four or five in the Village Square area.

On the plus side, expanding the program in that direction could provide affordable housing for people who work in Town, help local employers and reduce traffic, Ms. Kristiansson said, but it might prompt revisiting whether additional floor area is needed and whether neighbors would be concerned about the impacts of mixed uses on the neighborhood. She said any changes in floor area and density would warrant careful examination, and provisions would likely be needed to ensure ongoing management of the units.

In response to questions, Ms. Kristiansson said that:

- The number of units on a property could be limited to whatever the Town determines; it could be a single unit.
- At this time, a commercial or office use could not include employee housing without a General Plan amendment and a change in the Zoning Ordinance plus the analysis about mixed uses, floor area and density. What the Commission should consider is whether the regulatory changes necessary should be enacted to enable a property owner to seek a CUP

Commissioners expressed some concerns about the idea but agreed that for now the idea could be included in the housing element as an item to be explored. Further discussion of the idea could occur when the Commission reviews the draft housing element language.

Chair Gilbert invited public comment.

Bud Eisberg, Wyndham Drive, noted that some Village Square units already have lofts in the back with apartment-like entrances that could readily be converted into dwelling units without adding any floor area. He also asked which properties in Town have agricultural zoning that would qualify them to add employee housing, and

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inquired whether the Woods/Hawthornes Estate on the Midpeninsula Regional Open Space District property might have potential for affiliated housing.

Ms. Murphy said she visited the property with the Nature and Science Committee, and the MROSD representative said the organization is considering using the more modern house on the property for rangers. Depending on whether this idea this plays out, this house might count in the RHNA numbers.

Onnolee Trapp, The Sequoias, who served on the Ad Ho Affordable Housing Committee, said creating affiliated housing on commercial properties might also prove economically beneficial to property owners as well as their employees.

Craig Hughes, Town Council Liaison, suggested it would be a good idea to include mention of the Town intention to explore this option in the Housing Element.

Density Bonus: Ms. Kristiansson, noting that the Town Attorney prepared a report that was attached to the January 30, 2014 staff report, said Ms. Prince was prepared to answer questions. Ms. Kristiansson identified two key points:

- The Town must comply with SDBL whether or not an implementing ordinance is adopted; an implementing ordinance could, however, allow the Town to qualify for a streamlined Housing Element review
- Only development projects with at least five units would qualify for a density bonus, and there are only four properties in town that could accommodate five or more units under current zoning.

Ms. Kristiansson said that she and the Town Attorney believe there is enough time to adopt such an ordinance before the Housing Element must be submitted to the state.

Vice Chair Targ asked Ms. Prince to clarify some terminology – what is meant by “affordable,” and particularly by “low income” and “very low income?” Ms. Prince said these terms are defined in state law, and the term “affordable” connotes housing in a range when household income is below the median income. Area median incomes for households of various sizes are determined county by county, as are the income limits. In San Mateo County, a “moderate income” family of four would have a household income no greater than \$123,600.

Ms. Prince said the Health and Safety Code, which is referenced in the California Government Code Section 69515 that was attached to her report, defines income levels for moderate, low, very low income, with moderate at 80% of area median income. She said the Health and Safety Code also defines the maximum rents that can be charged (e.g., 30% of 60% of income for low income, and 30% of 50% for very low). An implementing ordinance could not change that, she said, nor could it change the number of incentives or concessions, which also is determined by SDBL.

Ms. Prince indicated that SDBL defines an incentive as 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 be, but need not be, the provision of a direct financial incentive such as the waiver of fees

Ms. Prince said that last month Palo Alto adopted a so-called “menu” of options to encourage developers to choose a setback reduction rather than a height increase, for example, or seek an increase in residential floor-area ratio but not in commercial FAR. Palo Alto is trying to encourage the use of certain incentives by pre-

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approving those. To receive other incentives, developers would need to provide pro formas and other financial information as part of the application. The thought is that this will discourage developers from applying for other incentives.

Given the fact that the Town is already obliged to follow state law; several Commissioners suggested that it makes sense to craft the implementing ordinance in order to take advantage of the opportunity to streamline. Even if Commissioners personally understand what the ordinance could and could not do, their consensus was that in the interest of openness and transparency with the public, a further study session should be devoted to the Town's density bonus ordinance. Mr. Prince said she could draft an ordinance and bring it back to the Planning Commission for discussion and public comment as part of the Planning Commission's review.

Bud Eisberg, Wyndham Drive, said while the implementing ordinance would be good for purposes of streamlining the Housing Element review, it would be important to know how such an ordinance could affect, for instance, a property such as 900 Portola Road. He expressed concern that the Town could lose control through such an ordinance.

Louis Ebner, Wyndham Drive, said he thinks the problem the public really wants solved is to understand where all of this is heading. Historically, complex developments are effectively negotiated behind closed doors, and by the time the public gets a clear notion of what's going on, the process is already well underway, without any knowledge either of what decisions were being made along the way or what options were considered and discarded. He said it's important to know what is controllable and what is not; the public is not resistant to reality but to ignorance.

Chair Gilbert noted that there is both public and Commission support for drafting an ordinance an for the Commission to hear a presentation on state density bonus law to be sure that there is clear understanding of the law and the implications of an implementing ordinance.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS [9: 50 p.m.]

Chair Gilbert excused herself and Vice Chair Targ took the gavel.

Ms. Kristiansson said that she is meeting with the 21 Elements study consultant to explain the in-house work staff has done on the housing element update and to determine what assistance the consultant can provide to help complete the effort.

ADJOURNMENT [9:53 p.m.]

Denise Gilbert, Chair

Karen Kristiansson, Deputy Town Planner