

PLANNING COMMISSION REGULAR MEETING, TOWN OF PORTOLA VALLEY, NOVEMBER 2, 2016, SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

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

Present: Commissioners Targ and Von Feldt; Vice Chair Gilbert

Absent: Commissioner McKitterick, Chair Hasko

Staff Present: Debbie Pedro, Planning Director
Arly Cassidy, Associate Planner

ORAL COMMUNICATIONS

None.

NEW BUSINESS

(a) Study Session on Accessory Dwelling Units

Vice Chair Gilbert said the Town Council has asked the Planning Commission to look at Accessory Dwelling Units, Junior Units, and Modular Housing. She said they will also need to comply with new State law requirements. She suggested the Commission provide input to staff, who will draft the proposed amendments.

Planning Director Pedro presented the staff report. She presented the Council's Housing Options Strategic Plan, and said that staff was directed to work with the Planning Commission to amend the Town's existing Second Unit Ordinance to comply with new State law. She said the State law now refers to a second unit as an Accessory Dwelling Unit (ADU).

Planning Director Pedro said the new ordinance must be adopted by January 1, 2017, or the existing ordinance will be null and void and the State statute will apply. She said the State Housing and Community Development Department is putting together a guiding document for cities that would be available at the end of November. She said it is very unlikely that Portola Valley can adopt an ordinance by January 1. She said that, in the meantime, if a second unit application comes in before a new ordinance is adopted, staff will do their best to apply the State law to approve it. She said another option is to adopt an emergency ordinance; however, considering the number of second unit applications the Town is seeing, that may not be necessary.

Associate Planner Cassidy explained that the law addresses traditional ADUs, but also specifically calls out Junior Second Units in a separate legislation. She said the new law states that the jurisdiction shall ministerially approve a building permit application if it met certain requirements and Planning staff can review the building permit with no separate Planning review process.

Vice Chair Gilbert asked for clarification on rules regarding interior conversion of ADUs. Planning Director Pedro said no additional square footage would be allowed. She said this section of the legislation applies to units that are built within the existing house or within the existing accessory structure, so conversion of an accessory structure falls within this rule. In response to Commissioner Targ's question, Associate Planner Cassidy agreed that a barn could be converted to an ADU. She said that, according to the new law, no parking standards can be imposed, no sprinklers will be

required if the home is not already required to have them, and the local agencies shall not require a new or separate utility connection directly between the ADU and any the utility, or impose any fees. She said it is a very streamlined process for someone that simply wants to convert existing space, whether it's in a home or within an accessory structure.

Vice Chair Gilbert said a barn conversion would have to add a bathroom, water, etc. Planning Director Pedro said some cities charge a lot of money for an extra utility or sewer connection for Accessory Dwelling Units, so this rule is intended eliminate those fees.

Commissioner Targ asked if this legislation purports to preempt homeowners' associations. Associate Planner Cassidy said homeowners' associations are not addressed in the legislation. Vice Chair Gilbert asked if this legislation would now allow a junior unit in a homeowners' association where they are not currently allowed. Commissioner Targ said he would assume the legislation would not preempt an existing homeowners' association's CC&Rs.

Commissioner Von Feldt said the Town can sometimes modify ordinances to make them stricter. She asked what aspects of this legislation could be modified. Planning Director Pedro said the Town can apply some controls, such as designating where the ADUs are permitted, for example, not permitting ADUs in certain zoning districts. She said the Town should, as part of this ordinance, make it clear where ADUs will be allowed. She said another discussion will be if the Commission wants to consider allowing ADUs in zoning districts of less than one acre. She said the Town can also apply some level of design review, such as height and setbacks, but it has to be clearly called out in the ordinance, and it must be ministerial. Commissioner Targ said his assumption is that this legislation sets the floor, and the Town can be more permissive because the Town would be exercising their independent authority.

Town Council Liaison/Vice Mayor Craig Hughes asked if the legislation allowed adding square footage by building higher or lower and not increasing the footprint of the house. Associate Planner Cassidy said the legislation speaks to the ADU within existing space, so she does not believe that any new exterior surface could be added.

Associate Planner Cassidy continued describing the key provisions of the ADU. She said there can be a Planning Permit, but it must be ministerial, specifically without discretionary review or a hearing, and it must be approved or denied within 120 days of receipt. Vice Chair Gilbert asked how it could be approved by a ministerial review if one of the callouts was an architectural review. Planning Director Pedro said it will have to be written into the ordinance, or staff will create a checklist. Associate Planner Cassidy said the Planning Commission needs to decide how detailed that checklist will be. In response to Commissioner Von Feldt's question, Associate Planner Cassidy said there would be no public hearings as long as the checklist was satisfied. Vice Chair Gilbert said that may make the Commission more restrictive which is the opposite of what the legislation is trying to achieve.

Associate Planner Cassidy said the legislation does require that the owner be on the parcel, either in the new unit or the existing residence, and that the Town can require the unit be rented for at least 30 days at a time, which would address the Airbnb issue. Vice Chair Gilbert said that since the Town can designate certain zones where ADUs are not allowed, could the Town also designate certain zones that would require ASCC approval. Associate Planner Cassidy said they are talking with the Town Attorney about that.. Commissioner Targ asked if the Town could impose a six-month rental. Associate Planner Cassidy said the wording is that the ADU may not be rented for less than 30 days.

In response to Commissioner Von Feldt's question, Planning Director Pedro said anything up to 1,200 square feet must be ministerial and must comply with the listed requirements (setbacks, height, architectural review, etc.). She confirmed there would be no public notice required.

Town Manager Dennis asked if there were restrictions in the Town publicly noticing an ADU even though a ministerial action does not require review. Planning Director Pedro said courtesy notices are currently provided.

Vice Chair Gilbert said this new legislation has prompted her to be cautious with modifying the ordinance until they have a solid understanding of the State law. Planning Director Pedro said the Commission can still discuss what they'd like to do and then staff will come back with a summary of those items that are covered by State law.

Town Manager Dennis said it will be helpful to staff for the Planning Commission to provide direction on the most important considerations.

Commissioner Von Feldt said previously, the strategy has been to hold back on doing too many things at once, partly to not shock residents, but also because of the need to provide more and more housing with every new Housing Element. She asked if the Town Council was directing the Commission to move forward much faster and not worry about then having to double their efforts with the next Housing Element cycle. Mr. Hughes said it was two things – one is to increase the number of units beyond the RHNA numbers, but more importantly to make sure that those units are actually being occupied and used as real housing and not just guest housing. He said the Council is looking to provide housing for Town staff, teachers, firefighters, the clerks at Robert's Market, etc.

Vice Chair Gilbert called for comments regarding Accessory Dwelling Units from the public. Hearing none, Vice Chair Gilbert brought the item back to the Commission for discussion.

Vice Chair Gilbert said the Planning Commission has been asked to consider increasing the maximum allowable size of second units and allowing them on properties smaller than an acre.

Commissioner Targ said he does not know what it looks like to have an Accessory Dwelling Unit on a site smaller than an acre. Planning Director Pedro said staff will try to find one, perhaps one that came in through the amnesty program.

Vice Chair Gilbert said she would want ASCC review on properties smaller than an acre because there may be sensitive issues to consider. Commissioner Targ said they can exclude allowing ADUs on lots smaller than one acre. Vice Chair Gilbert asked if, under the new State law, the Town could allow ADUs on smaller lots and require ASCC review. Commissioner Targ said he would not support ADUs on lots smaller than an acre without ASCC review and suggested asking the Town Attorney how to go about doing that. Commissioner Von Feldt said she would be able to support ADUs on smaller lots as long as they required ASCC review and with a smaller square footage limit. Vice Chair Gilbert said depending on what the State law allowed, they may be able to specifically designate which areas of Town where ADUs would be allowed.

Planning Director Pedro said the first step would be to get a legal opinion on whether the Town can require ASCC review on lots of less than an acre. If the answer is no, then the option for ADUs on smaller lots can be taken off the table.

Commissioner Von Feldt was supportive of increasing allowable maximum size of ADUs to 1,000 square feet on 1+ acre properties. Commissioner Targ said he would also support increasing the maximum to 1,200 square feet. Planning Director Pedro confirmed that the applicant would still be bound by the maximum floor area, setbacks, and heights. Vice Chair Gilbert asked if there would be additions to the staff's checklist if they increase the maximum to 1,200 square feet. Commissioner Targ said parking will become an issue, as will road capacity. Planning Director Pedro said the current parking requirement is one space for one bedroom and two spaces for two or more bedrooms.

Associate Planner Cassidy said the State law is the same for new addition second units, requiring either one space per unit or one per bedroom. Commissioner Von Feldt said the other impact would be sewer and septic. Planning Director Pedro said the property will still have to comply with providing adequate septic.

Vice Chair Gilbert asked the Commission to consider the ramifications of upping the maximum from 750 to 1,200 square feet and the items that would need to be added to staff's checklist. Commissioner Targ said he would want ASCC to weigh in as well, because there are land intensity issues. Vice Chair Gilbert suggested a 1,000 square foot limit on the 1 to 1.99 acres, and a 1,200-square-foot limit on the larger properties. Commissioner Targ said he would support going to 1,200 square feet on 1+ acres if there were an ASCC review.

The Commissioners agreed they were supportive of raising the maximum square footage for an ADU to 1,200 square feet, requiring only ministerial review for completely interior ADUs on any size lot; requiring only ministerial review for detached ADUs on properties over 1.99 acres; requiring only ministerial review for detached ADUs of less than 1,000 square feet on properties from 1 to 1.99 acres; and requiring ASCC review for detached ADUs of 1,000 to 1,200 square feet on properties from 1 to 1.99 acres. For properties under 1 acre in size, staff will try to find a detached ADU on a lot less than 1 acre in size to show the Commission as a model.

Onnalee Trap 501 Portola Road, said many of the older homes are on lots of less than one acre with modest-sized residences. She said they could build another attached unit up to 50 percent of the original residence. She said that may be where most of the questions will come from because those with very modest units might have a real need to add some space for their live-in care or to generate additional income. Vice Chair Gilbert said the Commission is in general support of that; however, they want ASCC review.

Commissioner Von Feldt expressed concern about parking and asked if there was a zoning overlay for neighborhoods with narrow one-lane roads. Planning Director Pedro said zoning districts of less than one acre, typically R-1/15M and R-1/20M, are very constrained in terms of parking. Commissioner Von Feldt said that some seemed more restrained than others. Commissioner Targ said they could require parcels of one acre or less to ASCC review, if that can be excluded from application of the State law, then later revisit the issue and possibly allow up to 1,000 square feet with ASCC review, which will allow some flexibility regarding safety and parking. Associate Planner Cassidy said second units completely within existing structures cannot be restricted to specific zones. She said the legislation says if a building permit comes in for a conversion of existing space to an ADU, and it has a door to the outside of its own, and the setbacks are sufficient for fire safety, then the Town must approve it and there must be no parking requirement.

Mr. Hughes said the legislation states that no additional parking is required if the unit is within one-half mile of public transit stops. Mr. Hughes noted, however, that the transit stops change from time to time. Planning Director Pedro said it was her understanding that the bus lines were very limited. Mr. Hughes said they are SamTrans buses only runs twice a day.

Commissioner Targ said it was worth thinking about how to create whatever flexibility the Fire Marshal needs to restrict growth on, for example, a hillside in an extreme fire danger area. Mr. Hughes read from the new legislation: "The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety." He said the Commission could specify what those traffic flow and safety requirements are in the approval process. Vice Chair Gilbert said it sounded like the State law was saying the areas had to be pre-designated. Commissioner Targ said if there was flexibility to make that determination on a case-by-case basis, he would have full faith that the Fire Marshal and Public Works

Director would determine whether or not something was safe. He said otherwise extreme fire danger areas with already existing road and parking problems should be excluded.

Vice Chair Gilbert asked if, under this State law, a project could be denied ministerially if the design of the second unit was dramatically different from the main house. Planning Director Pedro said they could not deny a project unless a requirement was written into the ordinance. She noted that regarding architectural design, two recent projects were sent to the ASCC because the designs were different from the main houses, but the ASCC had no issues with them. Vice Chair Gilbert asked if the project could be denied if that requirement was written into the ordinance. Planning Director Pedro said yes, that could be one of the checklist items. Vice Chair Gilbert said that under the new laws, if a 1,000 square foot ADU placed on a property greater than 2 acres requires only ministerial review, perhaps the ASCC would want to add things to the staff review checklist. Commissioner Targ said whatever the Planning Commission develops should be reviewed by the ASCC.

Commissioner Targ said second units should not be permitted in fire hazard areas or areas with inadequate roadways without extensive review. He said Council recommended that the Planning Commission consider the waiver of fees and additional incentives for second units or junior second units. Vice Chair Gilbert said the Council discussed it but excluded the waiver of fees in the recommendation. Commissioner Targ asked if the Commission should think about other incentives. Commissioner Targ recommended to table the discussion of waiving Town fees to a different time.

Vice Chair Gilbert moved the discussion to the Junior Second Units. Associate Planner Cassidy said a recent State law that speaks to Junior Second Units, is included in the staff report. She said it is very similar to the smaller ADU discussed in the newer law, with the main difference being that it has very clear definitions of things like the pipe size for the kitchen sink waste line. Planning Director Pedro said it was AB2406 and the Town has an option to adopt it with no time deadline. She said that could be used as the model ordinance. Vice Chair Gilbert said it was indicated that some jurisdictions required plans for on- or off-site parking locations, and she suggested Portola Valley include that requirement. Commissioner Targ said that would make him less concerned about having it ministerially approved.

Vice Chair Gilbert said she assumed that this would not overrule CC&Rs that prohibit second units. Planning Director Pedro said, broadly speaking, the homeowners' associations can have more restrictive requirements than the Town's requirements. Vice Chair Gilbert said the State law reads that you can't have more restrictive rules, but can have more flexible rules. Commissioner Von Feldt said it would preclude a big part of Town if all of Westridge, the Ranch, and Blue Oaks did not have to adhere to this State law. Commissioner Targ agreed it could be assumed that those homeowners' associations would not allow second units. Vice Chair Gilbert said that would assume that the State law did not override the homeowners' association.

The Commission agreed that Junior Second Units will be allowed on all properties. Staff will conduct further research regarding parking, and road and fire safety issues, as well as finding an example of second unit located on a parcel of less than one acre.

Vice Chair Gilbert continued with the discussion regarding modular units. Planning Director Pedro confirmed that staff was looking for thoughts, comments, input, and ideas. She said there was a comment at a Council meeting for possibly allowing a more fast track process for certain types of manufactured homes. Commissioner Von Feldt said if the Town wants people to build these units to rent and have an investment, it is critical to cut down the costs. She said if a modular home is \$100,000 versus \$300,000, that's significant.

Planning Director Pedro asked if the Commissioners had any general concerns about these types of buildings. Vice Chair Gilbert said she presumed there would be specifications of manufacture or design types that everyone would agree on. She said she does not have an issue with it conceptually.

Commissioner Targ asked if a tiny home was just another word for a detached ADU. Planning Director Pedro said it was. Vice Chair Gilbert said that the insides are economized and that could be easily preapproved ministerially as long as the requirements were specified. Associate Planner Cassidy said it has to be fairly permanently attached in order to count as permanent housing. Commissioner Targ said the homes on chassis are essentially trailers. He asked if trailers were currently allowed. Planning Director Pedro said they were not allowed unless they were temporary as part of a construction process. Planning Director Pedro said the Town allows storage of RVs in Town, but it is not considered permanent housing and habitation inside them is not permitted. Commissioner Targ suggested considering limitations on rentals, essentially an Airbnb regulation. He said a requirement for a minimum 30-day rental policy seemed like a good place to start.

Commissioner Targ said the staff report identified eight ADUs that had come in this year. He asked if the applicants had taken advantage of the expanded size for ministerial review or if they had gone to ASCC. Planning Director Pedro said new construction applications go before the ASCC regardless, but if there is an existing house that is adding on, most applicants stay below 750 square feet in order to avoid ASCC review. She said about half of the applications were new construction and the others were detached units of less than 750 square feet. She said with all new homes, as part of their preapplication discussion, they encourage applicants to plan for a second unit.

Commissioner Targ asked if Junior Second Units counted toward the RHNA goals. Planning Director Pedro said they did. Commission Von Feldt asked if the RHNA goals would be raised if the Town got twice as many as anticipated or if the goal would remain the same. Planning Director Pedro said the numbers were supposed to be based on employment numbers and household growth projections, and not based on how well a town did on reaching their goal.

Commissioner Targ asked what areas within the Town have HOAs or CC&Rs that would prohibit second units. Planning Director Pedro said she thinks only PV Ranch does not allow it. Commissioner Targ suggested the Council may want to recommend that the HOAs consider ADUs.

Planning Director Pedro asked for a Commissioner to be available to assist staff as they draft the ordinance. Commissioner Targ volunteered.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

Planning Director Pedro said the terms for three Commission members will expire January 2017 so staff will be advertising for the vacancies. She said the Town Council is tentatively scheduled to appoint the new members at their meeting on December 14, 2016. The application period ends on November 30 for Commissioners to submit letters of interest.

APPROVAL OF MINUTES: September 7, 2016, and October 19, 2016.

The approval of the minutes of the September 7, 2016, meeting was postponed because Vice Chair Gilbert and Commissioner Targ were not in attendance and would have to recuse themselves.

The approval of the minutes of the October 19, 2016, meeting, was postponed because Commissioners Targ and Von Feldt were recused at that meeting.

ADJOURNMENT [8:54 p.m.]