



**TOWN OF PORTOLA VALLEY
REGULAR PLANNING COMMISSION MEETING
Wednesday, April 19, 2017 – 7:00 p.m.
Council Chambers (Historic Schoolhouse)
765 Portola Road, Portola Valley, CA 94028**

7:00 PM – REGULAR AGENDA

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

Persons wishing to address the Commission on any subject, not on the agenda, may do so now. Please note, however, the Commission is not able to undertake extended discussion or action tonight on items not on the agenda.
 4. Old Business:
 - a. Accessory Dwelling Units Ordinance. (Staff: D. Pedro)
 5. Commission, Staff, Committee Reports and Recommendations:
 6. Approval of Minutes: April 5, 2017
 7. Adjournment:
-

ASSISTANCE FOR PERSONS WITH DISABILITIES

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

AVAILABILITY OF INFORMATION

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

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

PUBLIC HEARINGS

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

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

Date: April 13, 2017

CheyAnne Brown
Planning Technician



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Planning Commission

FROM: Debbie Pedro, Planning Director

DATE: April 19, 2017

RE: Amendments to Accessory Dwelling Unit Ordinance

RECOMMENDATION

Staff recommends that the Planning Commission review the draft ordinance, make any modifications deemed necessary, and adopt the resolution in Attachment 1 recommending that the Town Council adopt the ordinance amending Chapters 18.04 and 18.12 of the Portola Valley Municipal Code.

BACKGROUND

On September 27, 2016, Governor Jerry Brown signed Assembly Bill 2299 (AB 2299) and Senate Bill 1069 (SB 1069) amending Government Code Section 65852.2 related to secondary dwelling units (referred to under the new legislation as “accessory dwelling units” or “ADUs”). The changes are intended to reduce barriers, better streamline the approval process and expand capacity to accommodate the development of ADUs. Statutory changes in accessory unit provisions (§65852.2) is included in Attachment 4. Local agencies are required to update their ADU ordinance to comply with the new state regulations. Any existing municipal codes that do not meet the requirements of state law is considered null and void, and only state standards may be enforced.

On October 12, 2016, the Town Council approved a Housing Options Strategic Plan and directed the Planning Commission to examine ways to increase housing opportunities for seniors who wish to stay in Portola Valley, teachers, public safety and government workers, and other vital community members who may have been impacted by the ongoing housing crisis. Specifically, Recommendation #1 of the Plan calls for the Planning Commission to evaluate modifications to the ADU ordinance to possibly increase the maximum allowable size of second units and allowing second units on properties smaller than one acre. (Attachment 5)

The Planning Commission formed an ad hoc committee in November 2016 and met on December 13, 2016 to discuss potential changes to the ADU ordinance. The Architectural & Site Control Commission (ASCC) reviewed the recommendations from the ad hoc committee

on February 27, 2017 and unanimously recommended approval of the ordinance with a change to further increase the maximum allowable size of ADUs on 2+ acres lots. On March 15, 2017, the Planning Commission reviewed the draft ordinance and requested several changes and clarifications as discussed below. Additional background information can be found in the Planning Commission and ASCC staff reports and meeting minutes. (Attachments 6 and 7)

DISCUSSION

An ADU is a secondary dwelling unit with complete independent living facilities for one or more persons and generally takes the following forms:

- **Detached:** The unit is separated from the primary structure and can be created by new construction or conversion/repurposing of space within an existing detached legal accessory structure.
- **Attached:** The unit is attached to the primary structure and can be created by new construction or conversion/repurposing of space within the existing structure.

Key changes to the ADU ordinance are as follow:

1. Size Limit – The maximum allowable sizes of ADUs are shown in the chart below. The Planning Commission discussed allowing ADUs on properties less than 1 acre in size. However, since smaller lots have reduced setbacks of as little as 10’, a 1,000 square foot, 18’ tall structure may have greater potential visual and privacy impacts to neighboring properties. After much discussion, the Planning Commission agreed with the ASCC and the ad hoc committee to defer the discussion of ADUs on properties smaller than 1 acre to a future meeting.

Parcel Size	<1 acre	1-1.99 acres	2-3.49 acres	>3.5 acres
# of Residential Parcels in PV*	380	657	315	24
Current regulations	Not permitted	750 SF x 1 unit	1,000 SF x 1 unit	1,000 SF x 2 units
Proposed regulations	Not permitted	1,000 SF x 1 unit	1,200 SF x 1 unit	1,500 SF x 1 unit or 1,000 SF x 2 units

*Approximate numbers

2. Review Process – The ordinance provides for ministerial review of ADUs up to 1,000 square feet that comply with certain design requirements. The design requirements covering height, exterior colors and materials, etc. are intended to help mitigate any potential off site impacts of the structure. Other than the rules related to parking as required by state law, the remaining design requirements stipulated in Section 18.12.1040.B.2 of the ordinance have not changed. Both the ASCC and Planning Commission supported ministerial review of detached and attached ADUs up to 1,000 square feet and recommended that ADU’s over 1,000 square feet or that do not conform to the design requirements listed in Section 18.12.040.B.2 be subject to discretionary review by the ASCC.

Per Government Code Section 65852.2(e), a local agency shall ministerially approve an application for a building permit to create within a single family residential zone one ADU per single family lot if the unit is:

- contained within an existing residence or accessory structure.
- has independent exterior access from the existing residence.
- has side and rear setbacks that are sufficient for fire safety.

No additional parking or other development standards can be applied except for building code requirements. Fire sprinklers can be required in the ADU if it is already required for the primary residence. The law is intended to streamline and expand potential for ADUs where impact is minimal because the existing footprint of the structure is not being increased.

At their March 15, 2017 meeting, the Planning Commission directed staff to further evaluate this category of ADUs, citing health and safety concerns, particularly fire safety concerns for creating ADUs in neighborhoods where there smaller lots, narrow roads, and lack of adequate parking. In response to these comments, Section 18.12.040.B.1 has been modified to allow conversion or repurposing of existing space into an ADU in the R-E zoning district.

3. Parking - When an existing garage, carport, or covered parking structure is demolished in conjunction with the construction of a second unit, and when those off-street parking spaces must be replaced, the replacement spaces may be located in any configuration on the same lot as the second unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile lifts.

Furthermore, the new State law eliminates parking requirements for ADUs that are located within one-half mile of a public transit stop or car share vehicle pickup location, or within part of an existing legal structure. The Planning Commission discussed the definition of a public transit stop and noted that the bus service in Town does not provide transit service at regular intervals to sufficiently serve the general public. According to SamTrans, bus #s 85, 86, and 87 are School-Day Only bus routes that operate at infrequent intervals and only run during the regular school year. Based on this information, the parking exception section of the ordinance (18.12.040.B.4) was modified as there are no eligible public transit stop or car share vehicle pickup location in Town.

4. Utilities – ADUs within existing legally created structures are not required to provide fire sprinklers if they are not also required for the primary residence nor be required to install new or separate utility connections. However, due to local climatic, geologic and topographic conditions, after consultation with the Fire District, it is recommended that detached second units comply with local Building Code requirements, including fire sprinkler requirements.

The Planning Commission asked for more flexibility on the fire sprinkler requirement, noting that there may be other options to satisfy fire safety requirements including the installation of a hydrant. Section 18.12.040.B.6 has been amended to state that the Fire Marshal has authority to modify or waive the fire sprinkler requirement.

5. Owner Occupancy and Rental Restrictions - Either the ADU or the main dwelling shall be owner occupied and ADUs shall not be used for rentals with terms of 30 days or less. The purpose of this requirement is to ensure that ADUs are used for housing and not as a commercial activity.

The Planning Commission made no further changes to the owner occupancy and rental restrictions requirement.

PUBLIC COMMENTS

The Town received an email from resident Helen Wolter on January 8, 2017 suggesting that the allowable size of ADUs should be increased. (Attachment 8)

CONCLUSION

The proposed Zoning Ordinance amendments would support the Council adopted Housing Strategic Plan, is consistent with Program 3 of the 2014 Housing Element (amend the ordinance to encourage development of ADUs), and ensure that the Municipal Code would be in compliance with State regulations.

CEQA Compliance

The proposed ordinance is exempt from California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code.

Recommended Action

1. Move to adopt the resolution in Attachment 1 recommending that the Town Council adopt the ordinance amending Chapters 18.04 and 18.12 of the Portola Valley Municipal Code.

ATTACHMENTS

1. Resolution
2. Draft Ordinance (redline version)
3. Draft Ordinance (clean version)
4. California Government Code Section 65852.2
5. Council staff report on Housing Strategic Plan and meeting minutes dated October 12, 2016
6. Planning Commission staff report and meeting minutes dated March 15, 2017
7. ASCC staff report and meeting minutes dated February 27, 2017
8. Email from Helen Wolter received on January 8, 2017
9. Ordinance 2015-408, Second Unit Ordinance

RESOLUTION NO. 2017 -

**RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF
PORTOLA VALLEY RECOMMENDING APPROVAL OF AN
ORDINANCE AMENDING TITLE 18 [ZONING] OF
THE PORTOLA VALLEY MUNICIPAL CODE**

WHEREAS, on January 14, 2015, the Town Council of the Town of Portola Valley ("Town") adopted its current Housing Element identifying second units as a very effective way of providing affordable housing in town;

WHEREAS, recognizing the potential for second units as a housing strategy, California has passed several laws to lower the local regulatory barriers to construction, including a requirement that each local agency have a ministerial process for approving second units;

WHEREAS, in order to fully comply with the most recent California legislation (AB 2299 and SB 1069), the Town must amend its Zoning Ordinance;

WHEREAS, the Town has a ministerial process available for approval of second units under limited circumstances and wishes to expand the scope of ministerial approvals;

WHEREAS, the Town desires to go above and beyond the requirements of State law to encourage the building of new second units and therefore desires to amend the Zoning Ordinance allow larger units, increasing the maximum size from 750 square feet to 1,000 square feet, 1,200 square feet or 1,500 square feet, depending on the size of the property.

WHEREAS, due to local climatic, geologic and topographic conditions, after consultation with the Fire District, the Zoning Ordinance amendment requires detached second units to comply with local building code, including fire sprinkler requirements, unless a modification or waiver of the fire sprinkler requirement is approved by the Fire Marshall

WHEREAS, the Planning Commission held a duly noticed hearing on April 19, 2017 regarding the proposed ordinance; and

WHEREAS, the proposed ordinance is exempt from California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code.

NOW, THEREFORE, be it resolved that the Planning Commission of the Town of Portola Valley does hereby recommend that the Town Council approve the proposed ordinance as set forth in Exhibit A.

PASSED AND ADOPTED at the regular meeting of the Planning Commission of the Town of Portola Valley on April 19, 2017.

Ayes:

Noes:

Absent:

Abstain:

By: _____
Denise Gilbert, Chairperson

ATTEST: _____
Debbie Pedro, Planning Director

ORDINANCE NO. 2017-_____

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

WHEREAS, on January 14, 2015, the Town Council of the Town of Portola Valley (“Town”) adopted its current Housing Element identifying second units as a very effective way of providing affordable housing in town;

WHEREAS, recognizing the potential for second units as a housing strategy, California has passed several laws to lower the local regulatory barriers to construction, including a requirement that each local agency have a ministerial process for approving second units;

WHEREAS, in order to fully comply with the most recent California legislation (AB 229 and SB 1069), the Town must amend its Zoning Ordinance;

WHEREAS, the Town has a ministerial process available for approval of second units under limited circumstances and wishes to expand the scope of ministerial approvals;

WHEREAS, the Town desires to go above and beyond the requirements of State law to encourage the building of new second units and therefore desires to amend the Zoning Ordinance allow larger units, increasing the maximum size from 750 square feet to 1,000 square feet on one acre lots;

WHEREAS, due to local climatic, geologic and topographic conditions, after consultation with the Fire District, the Zoning Ordinance amendment requires detached second units to comply with local building code, including fire sprinkler requirements.

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

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

A “Second Unit” which is referred to as an “Accessory Dwelling Unit” in State law means an attached or detached residential dwelling unit located on the same parcel as a main dwelling unit and which provides complete independent living facilities, including those for living, sleeping, eating, cooking and sanitation, for one household.

2. AMENDMENT OF CODE. Subsection (B) of Section 18.12.040 [Accessory Uses Permitted] of Chapter 18.12 [R-E (Residential Estate) District Regulations] of Title

18 [Zoning] of the Portola Valley Municipal Code is hereby amended in its entirety to read as follows:

- B. The Town Planner shall act on an application for a second unit, either attached or detached, within 120 days of receipt if the proposed second unit meets all of the conditions identified below. The application for a second unit shall supply all the information required by Section 18.64.040.A.1 through 13. The Town Planner shall refer the application to the Town Geologist, Director of Public Works, Fire Chief and County Health Department for review prior to action on the application. Any application that does not meet all of the conditions identified below may apply for architectural and site plan review by the Architectural & Site Control Commission, provided that no second unit in the R-E-2A or R-E-2.5A zoning districts shall exceed 1,200 square feet and no second unit in the R-E-3.5A, R-E-5A or R-E-7.5A shall exceed 1,500 square feet.

Commented [LP1]: ASCC comment.

1. Property and Unit Size.

- a. ~~A One attached or detached~~ second unit up to 1,000 square feet is permitted on a parcel which is one acre or larger.
- b. Two second units up to 1,000 square feet each are permitted on a parcel of 3.5 acres or larger. Only one of the second units may be detached from the main dwelling, except that both second units may be detached if both are created by converting existing floor area in legal accessory structures into second units.
- c. An attached second unit as described in subsections 1.a and 1.b may be created in whole or in part through the conversion of existing space within the main dwelling unit.
- d. A detached second unit as described in subsections 1.a and 1.b above may be created in whole or in part through the conversion of an existing legal accessory structure.

Commented [LP2]: Staff comment – for clarity.

2. Design Requirements. Except as stated expressly herein, a second unit must comply with the site development standards and design guidelines applicable to the R-E zoning district, including but not limited to parking, height, setback, lot coverage, landscape and maximum size.

Commented [LP3]: Added to address Government Code Section 65852.2(e)

- a. Second unit floor area is inclusive of any basement area, but exclusive of any garage or carport area.
- ~~b. The second unit shall have the same address as the main dwelling.~~

Commented [LP4]: Staff comment - deleted, repetitive (see 4.b., below)

~~c.b.~~ The second unit is served by the same vehicular access to the street as the main dwelling.

~~d.c.~~ Color reflectivity values shall not exceed 40%, except that trim colors shall not exceed 50% reflectivity. Roofs shall not exceed 50% reflectivity.

~~e.d.~~ Exterior lighting on the second unit shall not exceed one light fixture per entry door. ~~Each fixture shall be fitted with only one bulb and the bulb wattage shall not exceed 75 watts incandescent light if frosted or otherwise diffused, or 25 watts if clear. All lighting fixtures shall comply with the Town's Municipal Code and Design Guidelines relative to lighting fixtures.~~ ~~Each fixture shall be manually switched and not on a motion sensor or timer.~~ Path lights, if any, shall be the minimum needed for safe access to the second unit and shaded by fixtures that direct light to the path surface and away from the sky.

Commented [LP5]: PC comment.

~~f.e.~~ Landscape plantings shall be selected from the Town's list of approved native plants and shall adhere to the Town's Landscaping Guidelines.

~~g.f.~~ The second unit shall not exceed a vertical building height of 18 feet with a maximum building height of 24 feet, as defined in Section 18.54.020A.

~~h.g.~~ The second unit shall have colors, materials and architecture similar to the main dwelling.

~~i.h.~~ The second unit shall not be visible from a local scenic corridor as identified in the General Plan.

~~i.~~ No setback shall be required for an existing garage that is converted to a second unit and a setback of no more than five feet from the side and rear lot lines shall be required for a second unit that is constructed above a garage.

~~j.~~ If the second unit is created by the conversion of existing space within the main dwelling unit, the second unit must have independent exterior access from the existing residence and side and rear setbacks that are sufficient for fire safety.

Commented [LP6]: Added to address Government Code Section 65852.2(e)

3. Parking Requirements.

- a. One dedicated parking space shall be provided for each second unit with one bedrooms or less, and two dedicated parking spaces shall be provided for each second unit with two or more bedrooms.
- b. Parking spaces in garages or carports shall be at least 10 feet wide by 20 feet. Uncovered spaces shall be at least nine feet by 18 feet.
- c. Parking spaces do not have to be covered, guest spaces are not required and tandem parking is permitted.
- d. When an existing garage, carport, or covered parking structure is demolished in conjunction with the construction of a second unit, and when those off-street parking spaces must be replaced, the replacement spaces may be located in any configuration on the same lot as the second unit, including, but not limited to, as

covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile lifts.

- e. ~~If the second unit is created entirely by the conversion of existing space within the main dwelling unit, the parking requirements identified in subsections 3.a-3.d shall not apply.~~

~~4. Parking Exceptions. The parking requirements of sub-section 3, above, shall not apply if any of the following conditions exist:~~

~~The second unit is located within one-half mile of public transit.~~

- a. ~~The second unit is part of an existing main dwelling or an existing accessory structure.~~

~~5.4. Owner Occupancy and Rental Restrictions.~~

- a. A second unit shall be permitted only on a lot containing an existing single-family dwelling.
- b. The second unit shall have the same address as the main dwelling.
- c. Second units may not be sold separately from the main dwelling.
- d. Either the second unit or the main dwelling shall be owner occupied. If the second unit is rented, any such rental shall not be for a term of less than 30 days.

~~6.5.~~ An application for a second unit, if dependent on a septic tank and drain field, will be referred to and require approval of the County Health Officer in accordance with Town policies.

~~7.6.~~ Second units must comply with local Building Code requirements, including fire sprinkler requirements, ~~unless a modification or waiver of the fire sprinkler requirement is approved by the Fire Marshall. A second unit created by the conversion of existing space within an existing single-family residence shall not be required to provide fire sprinklers if they are not required for the primary residence.~~

~~8.7.~~ Written notification of a second unit permit application shall be given to owner(s) of adjoining properties at least six days prior to action by the Town Planner.

Commented [LP7]: Added to address Government Code Section 65852.2(e)

Commented [LP8]: PC comment. Parking exception for interior conversion moved to 3.e.

Commented [LP9]: PC comment.

Commented [LP10]: Added to address Government Code Section 65852.2(e)

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

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

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

INTRODUCTED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST

Town Clerk

By: _____
Mayor

APPROVED AS TO FORM

Town Attorney

ORDINANCE NO. 2017-_____

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WHEREAS, the Town has a ministerial process available for approval of second units under limited circumstances and wishes to expand the scope of ministerial approvals;

WHEREAS, the Town desires to go above and beyond the requirements of State law to encourage the building of new second units and therefore desires to amend the Zoning Ordinance allow larger units, increasing the maximum size from 750 square feet to 1,000 square feet on one acre lots;

WHEREAS, due to local climatic, geologic and topographic conditions, after consultation with the Fire District, the Zoning Ordinance amendment requires detached second units to comply with local building code, including fire sprinkler requirements.

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- B. The Town Planner shall act on an application for a second unit, either attached or detached, within 120 days of receipt if the proposed second unit meets all of the conditions identified below. The application for a second unit shall supply all the information required by Section 18.64.040.A.1 through 13. The Town Planner shall refer the application to the Town Geologist, Director of Public Works, Fire Chief and County Health Department for review prior to action on the application. Any application that does not meet all of the conditions identified below may apply for architectural and site plan review by the Architectural & Site Control Commission, provided that no second unit in the R-E-2A or R-E-2.5A zoning districts shall exceed 1,200 square feet and no second unit in the R-E-3.5A, R-E-5A or R-E-7.5A shall exceed 1,500 square feet.

1. Property and Unit Size.

- a. One attached or detached second unit up to 1,000 square feet is permitted on a parcel which is one acre or larger.
- b. Two second units up to 1,000 square feet each are permitted on a parcel of 3.5 acres or larger. Only one of the second units may be detached from the main dwelling, except that both second units may be detached if both are created by converting existing floor area in legal accessory structures into second units.
- c. An attached second unit as described in subsections 1.a and 1.b may be created in whole or in part through the conversion of existing space within the main dwelling unit.
- d. A detached second unit as described in subsections 1.a and 1.b above may be created in whole or in part through the conversion of an existing legal accessory structure.

2. Design Requirements. Except as stated expressly herein, a second unit must comply with the site development standards and design guidelines applicable to the R-E zoning district, including but not limited to parking, height, setback, lot coverage, landscape and maximum size.

- a. Second unit floor area is inclusive of any basement area, but exclusive of any garage or carport area.
- b. The second unit is served by the same vehicular access to the street as the main dwelling.
- c. Color reflectivity values shall not exceed 40%, except that trim colors shall not exceed 50% reflectivity. Roofs shall not exceed 50% reflectivity.
- d. Exterior lighting on the second unit shall not exceed one light fixture per entry door. All lighting fixtures shall comply with the Town's Municipal Code and Design Guidelines relative to lighting

fixtures. Path lights, if any, shall be the minimum needed for safe access to the second unit and shaded by fixtures that direct light to the path surface and away from the sky.

- e. Landscape plantings shall be selected from the Town's list of approved native plants and shall adhere to the Town's Landscaping Guidelines.
- f. The second unit shall not exceed a vertical building height of 18 feet with a maximum building height of 24 feet, as defined in Section 18.54.020A.
- g. The second unit shall have colors, materials and architecture similar to the main dwelling.
- h. The second unit shall not be visible from a local scenic corridor as identified in the General Plan.
- i. No setback shall be required for an existing garage that is converted to a second unit and a setback of no more than five feet from the side and rear lot lines shall be required for a second unit that is constructed above a garage.
- j. If the second unit is created by the conversion of existing space within the main dwelling unit, the second unit must have independent exterior access from the existing residence and side and rear setbacks that are sufficient for fire safety.

3. Parking Requirements.

- a. One dedicated parking space shall be provided for each second unit with one bedrooms or less, and two dedicated parking spaces shall be provided for each second unit with two or more bedrooms.
- b. Parking spaces in garages or carports shall be at least 10 feet wide by 20 feet. Uncovered spaces shall be at least nine feet by 18 feet.
- c. Parking spaces do not have to be covered, guest spaces are not required and tandem parking is permitted.
- d. When an existing garage, carport, or covered parking structure is demolished in conjunction with the construction of a second unit, and when those off-street parking spaces must be replaced, the replacement spaces may be located in any configuration on the same lot as the second unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile lifts.
- e. If the second unit is created entirely by the conversion of existing space within the main dwelling unit, the parking requirements identified in subsections 3.a-3.d shall not apply.

4. Owner Occupancy and Rental Restrictions.

- a. A second unit shall be permitted only on a lot containing an existing single-family dwelling.
 - b. The second unit shall have the same address as the main dwelling.
 - c. Second units may not be sold separately from the main dwelling.
 - d. Either the second unit or the main dwelling shall be owner occupied. If the second unit is rented, any such rental shall not be for a term of less than 30 days.
5. An application for a second unit, if dependent on a septic tank and drain field, will be referred to and require approval of the County Health Officer in accordance with Town policies.
 6. Second units must comply with local Building Code requirements, including fire sprinkler requirements, unless a modification or waiver of the fire sprinkler requirement is approved by the Fire Marshall. A second unit created by the conversion of existing space within an existing single-family residence shall not be required to provide fire sprinklers if they are not required for the primary residence.
 7. Written notification of a second unit permit application shall be given to owner(s) of adjoining properties at least six days prior to action by the Town Planner.

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

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

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

INTRODUCTED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST

Town Clerk

By: _____
Mayor

APPROVED AS TO FORM

Town Attorney

CHAPTERED CHANGES IN ACCESSORY UNIT PROVISIONS**65852.2.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and

shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

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

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

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

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

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

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

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall

not impose parking standards for an accessory dwelling unit in any of the following instances:

- (1) The accessory dwelling unit is located within one-half mile of public transit.
 - (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - (3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
 - (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - (5) When there is a car share vehicle located within one block of the accessory dwelling unit.
- (e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
- (f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
- (2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.
- (A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.
- (B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

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

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

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

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

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

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

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

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

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

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

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

'TRACK CHANGES' VERSION: CHAPTERED CHANGES IN ACCESSORY UNIT PROVISIONS

65852.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- ~~(A) The unit is not intended for sale and may be rented.~~
- ~~(B) The lot is zoned for single-family or multifamily use.~~
- ~~(C) The lot contains an existing single-family dwelling.~~
- ~~(D) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.~~
- ~~(E) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.~~
- ~~(F) The total area of floorspace for a detached second unit shall not exceed 1,200 square feet.~~
- ~~(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.~~
- ~~(H) Local building code requirements which apply to detached dwellings, as appropriate.~~
- ~~(I) Approval by the local health officer where a private sewage disposal system is being used, if required.~~

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

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

~~owner-occupant.~~ *owner-occupant or that the property be used for rentals of terms longer than 30 days.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

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

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

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

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

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

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

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

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

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

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

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



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Town Council

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

DATE: October 12, 2016

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

RECOMMENDATION

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

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

BACKGROUND

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

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

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

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

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

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

DISCUSSION

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

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

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

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

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

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

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

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

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

Cost of a Second Unit

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

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

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

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

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

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

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

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

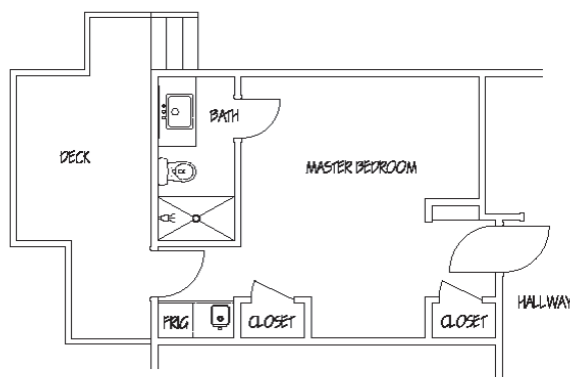
development. The two districts which collect fees in the Town are the Sequoia Union High School District (SUHSD) and the Portola Valley School District (PVSD), which levies a combined fee of \$3.48 per square foot for residential construction within the Town.

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

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

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

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



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

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

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

2. Affiliated Housing Opportunities

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

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

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

Employee Housing on Commercial and Institutional Properties

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

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

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

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

3. New Housing Opportunities on Town-Owned Land

Like many other municipalities, the Town of Portola Valley owns a number of lots acquired through the Inclusionary Housing Ordinance, remnants of larger lots, and acquisitions. The Town currently owns 26 properties¹, ranging in size from 0.017 to 16.05 acres (Attachment 2). Most are not developable given their location, size,

¹ Not including Town facilities

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

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

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

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

4. Inclusionary Housing Ordinance/Housing Impact Fee

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

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

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

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

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

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

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

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

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

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

5. Shared Housing

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

HIP Housing's Home Sharing Program:

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

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

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

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

6. Public Outreach/Timeline

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

Town staff suggests the following robust engagement:

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

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

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

FISCAL IMPACT

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

ATTACHMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mayor Derwin called for questions or comments from the audience.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Council approved Recommendations Eight, Nine, and Ten.

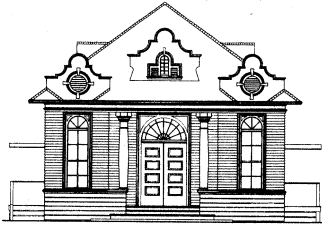
Councilmember Aalfs moved to approve staff recommendations regarding the Draft Housing Options Strategic Plan. Seconded by Councilmember Wengert; the motion carried 5-0.

Mayor Derwin called for a brief recess.

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

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

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



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Planning Commission

FROM: Debbie Pedro, Planning Director

DATE: March 15, 2017

RE: Amendments to Accessory Dwelling Unit Ordinance

RECOMMENDATION

Staff recommends that the Planning Commission review the draft ordinance, make any modifications deemed necessary, and adopt the resolution in Attachment 1 recommending that the Town Council adopt the ordinance amending Chapters 18.04 and 18.12 of the Portola Valley Municipal Code.

BACKGROUND

On September 27, 2016, Governor Jerry Brown signed Assembly Bill 2299 (AB 2299) and Senate Bill 1069 (SB 1069) amending Government Code Section 65852.2 requiring greater flexibility for the creation of second dwelling units (referred to under the new legislation as “accessory dwelling units” or “ADUs”). The changes are intended to reduce barriers, better streamline the approval process and expand capacity to accommodate the development of ADUs. Any existing municipal codes that do not meet the requirements of state law is considered null and void, and only state standards may be enforced. The purpose of the ordinance amendment is to ensure that the Town’s municipal code comply with the requirements of state law.

In November 2016, the Planning Commission formed an ad hoc committee to discuss potential changes to the ordinance. The committee recommended a number of changes to the current ordinance. The ASCC discussed the proposed amendments at their meeting on February 27, 2017 and unanimously recommended approval of the ordinance with a change to the maximum allowable size of the ADUs. Additional background information can be found in the ASCC staff report and minutes. (Attachment 3)

DISCUSSION

Key changes to the ADU ordinance are as follow:

1. Size Limit – The subcommittee discussed allowing ADUs on properties less than 1 acre in size. However, since smaller lots have reduced setbacks of as little as 10’, the buildings may have greater potential visual and privacy impacts to neighboring properties. As a result, the subcommittee decided to defer allowing ADUs on lots smaller than 1 acre. Instead, the subcommittee recommended increasing the maximum allowable size of a second unit from 750 sq. ft. to 1,000 sq. ft. on properties between 1-1.99 acres.

At their meeting on February 27, 2017, the ASCC determined that larger properties can accommodate larger units and recommended increasing the allowable size of ADUs to 1,200 sq. ft. on lots between 2-3.49 acres. For lots larger than 3.5 acres, the ASCC is recommending more flexibility by allowing one unit up to 1,500 sq. ft. unit or two units up to 1,000 sq. ft. each (one attached and one detached). It should be noted that the potential to develop ADUs on a property would still be limited by other zoning and site development standards including setbacks, heights, topographic and geotechnical constraints. For example, the total floor areas of all buildings combined (main residence, ADU, accessory buildings, etc.) cannot exceed the maximum floor area allowed on a property.

Parcel Size	<1 acre	1-1.99 acres	2-3.49 acres	>3.5 acres
# of Residential Parcels in PV*	380	657	315	24
Current regulations	Not permitted	750 SF x 1 unit	1,000 SF x 1 unit	1,000 SF x 2 units
Proposed regulations	Not permitted	1,000 SF x 1 unit	1,200 SF x 1 unit	1,500 SF x 1 unit or 1,000 SF x 2 units

*Approximate numbers

2. Parking - When an existing garage, carport, or covered parking structure is demolished in conjunction with the construction of a second unit, and when those off-street parking spaces must be replaced, the replacement spaces may be located in any configuration on the same lot as the second unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile lifts. Furthermore, no additional parking is required if the ADU is located within one-half mile of a public transit stop or car share vehicle pickup location, or within part of an existing legal structure.

The ASCC made no further changes to the parking requirements.

3. Utilities – ADUs within existing legally created structures are not required to provide fire sprinklers if they are not also required for the primary residence nor be required to install new or separate utility connections. However, due to local climatic, geologic and topographic conditions, after consultation with the Fire District, it is recommended that new detached second units comply with local Building Code requirements, including fire sprinkler requirements.

The ASCC made no further changes to the utility requirements.

4. Owner Occupancy and Rental Restrictions - Either the ADU or the main dwelling shall be owner occupied and ADUs shall not be used for rentals with terms of 30 days or less. The purpose of this requirement is to ensure that ADUs are used for housing and not as a commercial activity.

The ASCC made no further change to the owner occupancy and rental restrictions requirement.

The current ordinance provides for ministerial review instead of discretionary review of ADUs that comply with certain requirements. The design requirements covering height, exterior colors and materials, etc. are intended to help mitigate any potential off site impacts of the structure. Other than the rules related to parking as required by state law, the remaining design requirements stipulated in Section 18.12.1040.B.2 have not changed.

CONCLUSION

The proposed Zoning Ordinance amendments is consistent with Program 3 of the 2014 Housing Element (amend the ordinance to encourage development of ADUs), would support the 2016-17 Council Priority for affordable housing, and ensure that the Municipal Code would be in compliance with relevant State regulations.

CEQA STATUS

The proposed ordinance is exempt from California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code.

ATTACHMENTS

1. Resolution
2. Draft Ordinance
3. ASCC Staff Report and meeting minutes dated February 27, 2017

(c) Proposed Amendments to the Accessory Dwelling Units Ordinance

Planning Director Debbie Pedro presented the proposed modifications to the Town's Ordinance necessary to comply with the passing of Assembly Bill 2299 and Senate Bill 1069, as detailed in the staff report. The purpose of the change is to allow the further reduction of barriers, better streamline the approval process, and help incentivize the development of ADUs in California.

In response to Chair Gilbert's question, Planning Director Pedro said the ASCC is recommending that units 1,000 square feet or smaller would be ministerial review, but anything over 1,000 square feet would be subject to ASCC review. She said having a secondary set of guidelines is in compliance with the State law as long as it is subordinate to the primary guidelines that have a ministerial process.

Planning Director Pedro noted that the new State law includes provisions for repurposing existing space and that a local agency must ministerially approve an application for a building permit when an ADU is created within an existing building. She said that language will need to be added to the draft ordinance.

Vice Chair Targ said he has concerns that an ADU project in a high-fire danger zone with an over-capacity road would only require a ministerial determination. Planning Director Pedro said the reasoning for a ministerial approval is that the footprint of the building is not being expanded and therefore there would be minimal impact. Vice Chair Targ said it did not seem wise to allow increased density in an already congested, high fire danger area, unless the road system was improved to accommodate increased capacity. Chair Gilbert said there is no limit on how many people can live in the house, regardless of whether or not there is an ADU.

Planning Director Pedro said she will discuss with the Town Attorney whether or not fire danger can be a consideration in regulating interior conversion of space into an ADU.

Commissioner Von Feldt asked Vice Chair Targ if he meant there should be no opportunity for conversion or just that conversions should have sprinkler systems associated with them. Vice Chair Targ said he was generally in favor of ministerial approvals of ADUs; however, if there is a health and safety consideration, then at a minimum, it should be reviewed and the fire dangers considered.

Planning Director Pedro asked the Commission if there were any concerns with the ministerial approval of interior conversions on properties without the fire hazard area issue. Vice Chair Targ said he cared more about health and safety than the size of the lots. He said there might also be a health and safety issue with larger lots as well.

The Commissioners agreed that ministerial review was acceptable, but it should include a health and safety check-off by the Fire Department and Public Works, whether it's a separate unit or a conversion within the current building envelope.

Chair Gilbert asked if ADU's on less than an acre could be allowed with ASCC review. Planning Director Pedro said the Ad Hoc Committee discussed the question of whether a 750 square foot ADU is appropriate on smaller half acre lots and decided to defer that issue to a later time.

Commissioner Hasko said the Ad Hoc Committee's goal was to modify the current ordinance to comply with the new state law and they were being conservative rather than looking at broader changes beyond the purview of what the Ad Hoc Committee was trying to accomplish.

Vice Chair Targ said there are approximately 1,000 lots that could be allowed to have a second unit with ministerial review. He said at an extreme, that would be 1,000 additional units, which would be a

dramatic increase. He said he would prefer to see how things go and pursue it on a more incremental basis. He said this may be going beyond the initial scope to also introduce a non-ministerial pathway and perhaps that should be introduced in the next phase.

Vice Chair Targ said, with regard to second units having to comply with local building codes including fire sprinklers, his recollection is that the Fire Marshal would make determinations based on fire safety standards and procedures on a case-by-case basis. Planning Director Pedro said all building permits go to Fire for review regardless of whether it's ministerial or discretionary, and the Fire Marshal then determines whether sprinklers are required. She suggested changing the language to "a design that meets the Fire Marshal's approval." Vice Chair Targ agreed and said he is very concerned about health and safety issues, but has great faith in the judgment and expertise of the Fire Marshal.

Planning Director Pedro said the ASCC recently recommended the encouragement of motion sensor switches for outdoor lighting fixtures. This conflicts with the design requirements currently indicated for second units. The Commissioners agreed the sentence in the ordinance should be changed from specifying no motion sensor lights to indicate that lighting should be in conformance with the Town's Design Guidelines.

Hearing no further questions, Chair Gilbert invited public comment.

Helen Wolter, Alpine Road. Ms. Wolter submitted a letter, included in the staff packet, describing her concerns regarding the restrictions on ADU sizes. She recommended that 400 to 500 square foot ADUs be allowed on lots smaller than one acre for an au pair or caretaker, which would allow the conversion of a 400 -square foot garage. She suggested a 3.5-acre parcel could have one detached 2,000-square-foot ADU or both a detached 1,500 square foot and an attached 500 square foot unit.

Vice Chair Targ asked Ms. Wolter how she heard about the meeting. He said he wished more people had attended. Ms. Wolter said she is considering building an ADU. She said the 750 square foot limit for properties less than two acres didn't meet her needs for creating a rental unit. She said she has been talking with staff about what could work for her family.

Chair Hasko brought the issue back to the Commission for discussion. She said no vote would occur tonight, but the Commission would make recommendations for changes to be drafted by staff and brought back for review.

In response to Commissioner Von Feldt's question, Planning Director Pedro said that ADUs that fits within the size restrictions and the Town's Design Guidelines would only require a ministerial review. She said the intent of the ministerial review is to allow a streamlined process as an incentive to build more housing units.

Commissioner Von Feldt said she was comfortable with the proposed amendments.

Chair Gilbert reminded the Commission that they were prepared to allow for a size increase in ADUs, but with the change of the California regulations which allowed ministerial review, the Commission stepped back and formed the subcommittee to study the implications of that change.

Commissioner Von Feldt said there is benefit to phasing in the changes to have a chance to see how these changes play out.

Commissioner Goulden said he is sympathetic to being able to build something on less than one acre. But he agrees that changes should be done in phases.

Commissioner Hasko said she was concerned that people may not have attended the meeting tonight because they thought it was about ministerial review without realizing that discussion was also about increasing floor area limits on ADUs. She said she understands the Town's commitment to affordable housing and doesn't find these increased numbers outrageous, but is concerned about how we are getting there. She said it was also important for the Town to get an understanding of how these units would actually be used. She said the RHNA numbers will be easy to meet in terms of this mechanism, but if the objective is to actually increase affordable housing, there is not data that she knows of regarding actual use. She said if ADUs are not being used for affordable housing, it does not forward the mission being encouraged by the Town Council. She said she has read enough in prior ad hoc meetings to understand where the 1,200 square feet limit comes from, but feels she doesn't have a great sense of where the other numbers are coming from.

Planning Director Pedro explained that the ASCC came up with 1,500 square feet because two 1,000 square foot units (one attached and one detached) were already being allowed, but they wanted to offer the option of building one 1,500 square foot unit instead. Commissioner Hasko said the visual density would be different. Chair Gilbert pointed out that option would go before the ASCC for review.

Chair Gilbert suggested advertising these proposals so that more residents were aware of the changes and could provide feedback. Commissioner Targ said he agrees and said he would be more comfortable forming an opinion regarding the non-ministerial review of a 1,500 square feet ADU if there was more public feedback around it. He said the ASCC has put forward an interesting proposal and suggested that the next meeting be re-noticed with the ASCC's recommendation and that a concerted effort be made to involve the community.

Planning Director Pedro asked the Commissioners to go over the specific changes to the six topics presented tonight.

Commissioner Goulden was supportive of more flexibility in the size of ADUs, and did not have a significant concern with 1,500 square feet. He said communicating clearly about what is and what is not ministerial is important.

Chair Gilbert said she is generally supportive, but would like to receive more public input.

The Commissioners were supportive of ministerial review for units of 1,000 square feet or less, and staff confirmed that they will check on the fire safety concerns for interior conversions for ADUs on less than 1 acres.

With regard to the parking requirements, Vice Chair Targ said he would like to redefine for the Town of Portola Valley what it means to have a transit stop. Chair Gilbert said the transit stops in Town are not viable options if someone wants to use them to get to work. She said however, if the transit stops are redefined, then parking spaces would be required for ADUs, which would make them more difficult to build.

Commissioner Von Feldt said they want to avoid densifying neighborhoods that are already dangerous for ingress and egress in the event of a fire. She said cars blocking the street due to the lack of available parking for their unit would make that situation even more dangerous.

The Commissioners were supportive of the utility requirements with more research on the fire sprinklers language.

The Commissioners were supportive of the occupancy requirements.

Vice Chair Targ suggested that in the next draft ordinance, the ASCC recommendations and tonight's comments could be bracketed so the options are called out.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

Commissioner Von Feldt said Planning Director Pedro and Ted Driscoll presented a report to the Town Council explaining the Town Center Master Planning process. The Committee requested that the Town hire an expert to provide mock ups of the different alternatives so they can further assess feasibility. She said the Council discussion resulted in directing the Master Plan Committee to come up with clear criteria before retaining an expert.

Chair Gilbert asked if the Planning Commission should look at expanding the reference to safety in the General Plan. She suggested it could be included in community goal number 3 or it could be an additional goal. She said the safety element is meant to address both natural and manmade safety issues; however, most people interpret it as natural because Portola Valley is in an earthquake zone. She said neighboring communities safety elements also address crime and human-caused threats to public safety such as structural fires, crime, and hazardous waste.

In response to Vice Chair Targ's question, Planning Director Pedro said the General Plan is updated as needed. She said only the Housing Element has a specific timeline of eight years. She said the Safety Element was last amended in 2010.

Commissioner Goulden was supportive of the idea, primarily because most of the Commissions and Committees are taking safety into consideration as a result of the recent concerns about community safety.

Commissioner Von Feldt said since they have discussed trying to tie everything together to be consistent with the General Plan, which is rather silent regarding community safety, if there are regulations that might be coming forward, it would be helpful to be able to ensure those things are consistent with the General Plan.

Commissioner Hasko said she is hesitant to make changes to the General Plan, and she would want to look more closely at the Safety Element.

Chair Gilbert said she would not want a resident to be denied, for example, a slight change in lighting for safety reasons because the General Plan doesn't allow it. She said those issues should be able to be balanced and must be mentioned. Planning Director Pedro said that not having it in the General Plan doesn't mean the issue cannot be acknowledged or discussed.

Vice Chair Targ said he doesn't like amending General Plans unless there is a very compelling reason to do so. He said if the General Plan hasn't created an obstacle or a problem, he is reluctant to open it up.

Chair Gilbert says having a discussion does not mean staff needs to come to a decision to make a change.

Vice Chair Targ suggested asking staff to identify how safety is addressed in the General Plan prior to the Commission having that conversation. Chair Gilbert said staff should also look at how some of the local communities handle it, maybe something as minor as including "safe community" in the list of important values in community goals, to give people the opportunity to balance safety with some of the other values. Chair Gilbert said the message she got at the last meeting was that community safety issues was not in the General Plan and the Safety Element didn't require it, therefore, the ASCC and



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: ASCC

FROM: Debbie Pedro, Planning Director

DATE: February 27, 2017

RE: Proposed Amendments to the Accessory Dwelling Units Ordinance

RECOMMENDATION

Staff recommends that the ASCC consider the proposed ordinance in Attachment 1 and recommend to the Planning Commission the approval of the ordinance amending sections of Title 18 (Zoning) of the Portola Valley Municipal Code relative to accessory dwelling units.

BACKGROUND

On September 27, 2016, Governor Jerry Brown signed Assembly Bill 2299 (AB 2299) and Senate Bill 1069 (SB 1069) amending Government Code Section 65852.2 requiring greater flexibility for the creation of second dwelling units (referred to under the new legislation as “accessory dwelling units” or “ADUs”). The changes are intended to reduce barriers, better streamline approval and expand capacity to accommodate the development of ADUs. The resulting requirement is that local agencies are required to adopt an ordinance that complies with the changes noted in the above bills. Any existing municipal codes that do not meet the requirements of state law is considered null and void, and only state standards may be enforced.

DISCUSSION

In November 2016, the Planning Commission formed an ad hoc committee to discuss potential changes to the ordinance. The committee, comprised of two Planning Commissioners, the Planning Director, the Town Attorney, and the Fire Marshal, met on December 13, 2016 and recommended the following key changes to the ordinance:

1. Size Limit - Increase the maximum allowable size of a second unit from 750 sq. ft. to 1,000 sq. ft..

Parcel Size	<1 acre	1-1.99 acres	2-3.49 acres	>3.5 acres
Current regulations	Not permitted	750 SF x 1 unit	1,000 SF x 1 unit	1,000 SF x 2 units
Proposed regulations	Not permitted	1,000 SF x 1 unit	1,000 SF x 1 unit	1,000 SF x 2 units

2. Parking - When an existing garage, carport, or covered parking structure is demolished in conjunction with the construction of a second unit, and when those off-street parking spaces must be replaced, the replacement spaces may be located in any configuration on the same lot as the second unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile lifts. Furthermore, no additional parking is required if the ADU is located within one-half mile of a public transit stop or car share vehicle pickup location, or within part of an existing legal structure.
3. Utilities – ADUs within existing legally created structures are not required to provide fire sprinklers if they are not also required for the primary residence nor be required to install new or separate utility connections. However, due to local climatic, geologic and topographic conditions, after consultation with the Fire District, it is recommended that new detached second units comply with local Building Code requirements, including fire sprinkler requirements.
4. Owner Occupancy and Rental Restrictions - Either the ADU or the main dwelling shall be owner occupied and ADUs shall not be used for rentals with terms of 30 days or less.

Public Comments

Resident Helen Wolter submitted an email on January 8, 2017 suggesting that the allowable size of ADUs should be increased. (Attachment 5)

Next Steps

The ASCC should provide input on the proposed ordinance amendments. Based on comments and direction from the ASCC, staff will make changes to the draft ordinance and forward it to the Planning Commission for review. The draft ordinance will then be forwarded to the Town Council for their review and approval.

Attachments

1. Proposed Ordinance Amendments
2. Ordinance 2015-408, Second Unit Ordinance
3. California Government Code Section 65852.2
4. HCD Accessory Dwelling Unit Memorandum, December 2016
5. Email from Helen Wolter received on January 8, 2017

The Commission had no recommendations for changes to the Design Guidelines regarding landscaping.

(b) Proposed Amendments to the Accessory Dwelling Units Ordinance.

Planning Director Pedro presented the staff report regarding the recent State law passed relating to second units, requiring all towns and cities to update or amend their second unit ordinances to comply with the State law. She presented the recommended changes developed by the ad hoc committee, as detailed in the staff report.

Planning Director Pedro clarified that a car share vehicle pickup location refers to a designated car share, i.e., carpool lots, ZIP car parking, etc.

Planning Commissioner Denise Gilbert said the Planning Commission was initially prepared to discuss increasing the allowable size of an ADU on larger properties and allowing ADUs on properties of less than one acre. She said when they delved into the State law further and learned it placed ADUs under administrative review, meaning they do not come before the ASCC, they decided to form an ad hoc committee for further study of that process. She said the Planning Commission has not yet reviewed the ad hoc committee's report and therefore, the ASCC should not assume the Planning Commission is in agreement with their findings. She asked the ASCC to comment if they are comfortable with broadening the ADUs and the Design Requirements checklist as proposed.

In response to Planning Commissioner Gilbert's question, Planning Director Pedro said the proposed Design Requirements are pretty much the same as the existing, but there are certain types of ADUs that will be brought to ASCC for review – i.e., second-story additions, buildings that have color reflectivity value issues, or units that do not have colors, materials, or architecture similar to the main dwelling or are visible from the local scenic corridor. She said any project that requires a site development permit will still come to the ASCC if there is over a certain amount of grading.

In response to Chair Ross's question, Planning Director Pedro said the State law says the unit may be up to 1,200 square feet, but that number can vary by jurisdiction.

In response to Chair Ross's question, Planning Director Pedro said if an application for a complete redevelopment of a site comes in, that includes building a new house and an ADU, the ASCC would see the complete application as a whole. She confirmed that this proposed ordinance is meant to remove the barriers and make it easier to build an ADU on existing properties and to incentivize homeowners to create new ADUs.

In response to Commissioner Wilson's question, Planning Director Pedro said there would still be a building permit fee, but there would no longer be the ASCC fee. Commissioner Wilson asked if a further incentive would be to remove the building permit fee. Planning Director Pedro said that could be a recommendation for Council to consider. She said the Town currently has no way to ensure that the ADUs are being rented out. Commissioner Wilson asked if the applicant could sign something promising to rent out the unit for a certain amount of time in exchange for waiving the fee. Planning Director Pedro said that could be an option – a deed restriction or some sort of agreement with the homeowner in exchange for waiving a fee.

With no further questions, Chair Ross invited questions or comments from the public.

Helen Wolter, Alpine Road. She was supportive of allowing more square footage for ADUs. She said she appreciates the proposal for 1,000 square feet on a property up to 2 acres; however, she would recommend increasing the allowable size for an ADU on a property of 2 to 3.5 acres. As stated in her letter attached to the staff report, she suggested the total gross floor area ratio (FAR) be considered when calculating the allowable size of an ADU. She suggested requiring a 60 days or less restriction instead of 30 days.

With no further public comment, Chair Ross brought the issue back to the Commission for discussion.

Commissioner Wilson said that a restriction of 60 days or less may restrict someone who needed to stay here because their child was being treated at Stanford.

The Commissioners agreed that no ADUs should be allowed on properties of less than 1 acre.

The Commissioners agreed that a 1,000-square-foot unit should be allowed on a property of 1 to 1.99 acres.

Commissioner Wilson said there should be a better middle ground as to the allowable size of an ADU on a 2- to 3.49-acre property, considering if a property was just over the 3.5 acres it could have two units. The Commissioners recommended the size allowed on a 2- to 3.49-acre property should be 1,200 square feet.

The Commissioners recommended that on a property of 3.5 or more acres, two 1,000-square-foot units (with only one detached) or one 1,500-square-foot unit should be allowed.

The Commissioners agreed that any ADU of less than 1,000 square feet would be administrative review and anything above would go to the ASCC for review.

Chair Ross asked if the law distinguished about the type of occupancy with regard to the length of time allowed – for instance a renter versus a visiting family member. Planning Director Pedro said the term “rented” is the key. She added that enforcement would be very difficult and would likely be complaint driven. Ms. Wolter said that in Mountain View, companies have purchased several ADUs and turned them all into Air BnB or VRBO rentals, in essence becoming a hotel, but not paying taxes or complying with the same regulations. Commissioner Breen noted that this was a Planning Commission issue, not the ASCC.

Commissioner Wilson asked if anything should be added regarding reduction in fees. Planning Director Pedro said that might be proposed with an agreement with the owner that the ADU will be rented out and not kept vacant or used as a guest house or home office.

(c) **Proposed “Clean-Up” Text Amendments to the Municipal Code Regarding Vending Machines, Basements and Scenic Corridor Setbacks**

Associate Planner Cassidy presented the staff report regarding text clean-ups of three different subsections of the Zoning Code.

The Commissioners agreed that Section D.3.c. should include an additional sentence stating that the use of the structure must not change.

(6) **COMMISSION AND STAFF REPORTS: [10:03 p.m.]**

From: [Helen Wolter](#)
To: [Debbie Pedro](#)
Subject: Comment - ADUs in Portola Valley
Date: Sunday, January 08, 2017 12:21:52 PM

January 5, 2017

Dear Ms. Pedro:

I am writing concerning the proposed regulation changes that are being considered for accessory dwelling units (ADUs). I am writing, as the current code does not represent many circumstances in Portola Valley. If you truly want to increase housing stock, I recommend considering the following changes.

First, the current size restrictions of 750 square feet on lots over 1 acre are limiting. They are fine for single renters, but for grandparents who want their grandchildren over for sleepovers, or for families to rent, 750 square feet is too small.

Additionally, the current size restrictions do not take into account the gross floor area ration (FAR) for an entire lot. For instance, if the zoning only allows 750 square feet for an ADU, additional square footage could be eliminated out of any future expansions to the primary residence. For example, if a lot's gross FAR is 6,000 square feet, but the current house is only 3,000 square feet, then the new regulations could support a larger ADU. If, for our example, the hypothetical ADU was allowed at 1500 square feet, then any future primary expansion footprint could only then be 4500 square feet. Some cities, such as Vancouver and Palo Alto, already utilize this idea.

Furthermore, I highly recommend that the code be amended to allow larger ADU's square footage than is currently allowed. Atherton and Woodside both allow homeowners greater flexibility in deciding how to utilize their land with its larger ADU allowance. Atherton allows 1200 FAR for second dwelling

units, while Woodside allows 1500 FAR for accessory units. As SB 1069 recommended, the primary residence still should be the largest unit, as the ADU should be limited in size, to retain the town's character.

Overall, I strongly suggest that there should still be restrictions on the size of the ADU's while recognizing that the total FAR for the entire lot should be taken into consideration. This would allow greater flexibility to homeowners in deciding how to utilize their land as well as provide additional housing options.

Thank you for your consideration.

Sincerely,

Helen Wolter



Portola Valley, CA 94028

Sent via email

ORDINANCE NO. 2015 - 408**ORDINANCE AMENDING TITLE 18 [ZONING] OF THE PORTOLA VALLEY
MUNICIPAL CODE RELATIVE TO SECOND UNITS**

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

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

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

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

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

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

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

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

"B. Second units subject to the following provisions:

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

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

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

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

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

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

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

INTRODUCED: August 26, 2015

PASSED: September 9, 2015

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

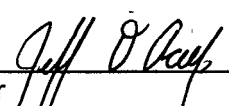
NOES: None

ABSTENTIONS: None

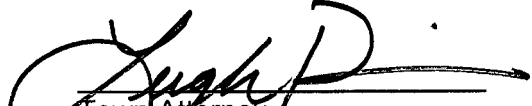
ABSENT: None

ATTEST:


Town Clerk

By: 
Mayor

APPROVED AS TO FORM:


Town Attorney

DRAFT MINUTES

PLANNING COMMISSION REGULAR MEETING, TOWN OF PORTOLA VALLEY, APRIL 5, 2017, SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

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

Present: Commissioners Goulden, Hasko, and Von Feldt; Vice Chair Targ; Chair Gilbert

Absent: None.

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

ORAL COMMUNICATIONS

None.

Chair Gilbert moved Item (c) under New Business to be heard first.

NEW BUSINESS

- (c) Final Review of Proposed Lot Merger, File #LLA-02-2017, 4 & 5 Blue Oaks Court, Koontz Revocable Trust, APN #s 080-241-020 & 030

Associate Planner Cassidy presented the staff report detailing the proposed lot merger of the properties located at 4 and 5 Blue Oaks Court. She said the ASCC reviewed the proposed merger on March 27, 2017, and recommended Planning Commission approval.

Chair Gilbert invited questions for staff or the applicant. Hearing none, Chair Gilbert invited public comment. Hearing none, Chair Gilbert brought the item back to the Commission for discussion.

Vice Chair Targ was supportive of the proposal.

Commissioner Von Feldt was supportive of the proposal and that the project would be under the allowed maximum floor area and impervious surface.

Commissioner Hasko was supportive of the proposal.

Vice Chair Targ moved to find the project exempt from CEQA pursuant to Section 15303A of the CEQA guidelines. Seconded by Commissioner Hasko; the motion carried 5-0.

Commissioner Von Feldt moved to approve the proposed lot merger subject to the attached resolution and conditions of approval. Seconded by Commissioner Goulden; the motion carried 5-0.

- (a) Final Review of Proposed Lot Merger. File #LLA-01-2016, 120 and 130 Golden Hills Drive. Qi Lin Family LLC. APN #s 077-211-140 & 130.

Planner Richardson presented the staff report detailing the proposed lot merger of the properties located at 120 and 130 Golden Hills Drive. She said the ASCC reviewed the proposed merger on March 13, 2017, and recommended approval.

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Chair Gilbert invited comments by the applicant. Hearing none, Chair Gilbert called for questions for the applicant or staff.

Commissioner Von Feldt said ASCC Commissioner Breen had commented regarding the lawn under the blue oaks. She asked if the applicant had considered removing that lawn. The applicant said there is an upper and lower lawn, and the lower lawn has been removed where the blue oaks are located. Hearing no further questions, Chair Gilbert invited comments from the public. Hearing none, Chair Gilbert brought the item back to the Commission for discussion.

Commissioner Hasko moved to find the project exempt from CEQA pursuant to Section 15303A of the CEQA guidelines. Seconded by Commissioner Goulden; the motion carried 5-0.

Commissioner Von Feldt moved to approve the lot merger subject to the attached resolution and conditions of approval. Seconded by Commissioner Goulden; the motion carried 5-0.

- (b) Conditional Use Permit, Variance, Architectural Review and Site Development Permit for Willow Grove, LLC (Hallett Store) 844 Portola Road (formerly 846 Portola Road). File #37-2015 and X7D-178.

Planner Richardson presented the staff report detailing the plans for the conditional use permit, two variance requests, and the architectural and site development review for 844 Portola Road (formerly 846 Portola Road, Hallett Store).

Chair Gilbert invited the applicant to comment. The applicant, John Hansen, pointed out the outline of a previous building in the setback area that is substantially larger than the deck they are proposing. He said the deck is a positive amenity with a very low profile.

Chair Gilbert called for questions for staff or the applicant.

Commissioner Goulden asked why there are multiple variances. Planning Director Pedro said there is a separate variance request for each of two items – one for the deck and one for the building. Chair Gilbert said there is an option to approve one or the other.

Commissioner Goulden asked for clarification regarding the deck height and railing. The applicant said the deck is approximately 12 to 18 inches from the ground. Planning Director Pedro said the ASCC is requiring that if a deck variance is approved there is to be no railing on the deck.

Vice Chair Targ asked what prompted the change in environmental review determination from a Mitigated Negative Declaration (MND) to a Categorical Exemption. Planning Director Pedro said there would be no change in the proposed use of the property, and the project will have very little environmental impact therefore the Town Attorney advised that an MND was not needed.

Vice Chair Targ said he previously didn't have an issue with the deck variance because the impact of a patio to the shallow roots of the oak trees could be the basis for hardship. He said there has been no arborist report, however, to follow up on that claim. The applicant said there is an arborist report that covers the entire site, and it reports no issues with any part of the proposal. Vice Chair Targ said Mr. Warr had indicated the deck was being raised up off the ground in order to protect the roots of the oak tree. The applicant said there would be a very shallow foundation base for that deck in that area. Planning Director Pedro said the applicant did not submit an arborist report regarding a patio's impact on the oak tree because a patio was never proposed. She said if the applicant had provided an arborist report stating that an at-grade patio would affect the tree roots, staff's response would have been to consider reducing the size of the patio. She said staff would not have suggested a variance to allow a

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deck to encroach in the front setback as an alternative. Vice Chair Targ asked regarding staff's reason for recommending denial of the deck. Planning Director Pedro said the deck feature is design-driven and is not a required element of the use of the site. She said it was difficult to make the hardship finding because it's not a necessary element of the project.

Chair Gilbert asked the applicant if the arborist was satisfied that the gravel parking lot that comes right up to the dripline of the redwoods would not affect the roots of those trees. The applicant said he believed so and that the arborist had no problem with the plan as outlined. Chair Gilbert said if the arborist is okay with the placement of the gravel, she would assume a patio, which is 10 to 15 feet away from the oak tree, would also be acceptable.

Commissioner Hasko asked if ASCC Chair Ross was accurate with this comment that the deck was particularly suited because it was similar to other nearby structures within the setback and created consistency. Planner Richardson said as far as she knows there are no other decks encroaching within the front setback on adjacent properties. Chair Gilbert said that today, no building along Portola Road would be able to construct a deck in the setback without a variance.

Commissioner Hasko said ASCC Commissioner Breen supported the project and the deck because it was a better solution for preserving the tree. Commissioner Hasko said, since there was no arborist report, she assumes ASCC Commissioner Breen was commenting based on her general knowledge. She asked if it was typical practice to require an arborist report for support of this type of determination. Planning Director Pedro said if an applicant is proposing a patio that may affect a tree, an arborist report would be required. In this case, she said the applicant did not propose a patio and did not provide an arborist report.

Chair Gilbert said the staff report indicates each of the offices cannot exceed 1,500 square feet, but one of the office measures 1,541. Planner Richardson said the ordinance outlines areas for storage, mechanical purposes, etc., that are excluded from the 1,500 square feet. She said that staff verified it is in compliance with the ordinance.

Chair Gilbert asked if there was risk that the back wall would need to be replaced, and, if so, if that would tip the percentages to over the 50 percent threshold for nonconforming structures. The applicant said the foundation at the back wall is very stable. Chair Gilbert said if the repair goes over the 50 percent, it will put the entire project at risk. Planning Director Pedro said the applicant has studied the foundation and the current condition of the building, and has provided a construction estimate confirming that the repair work is below 50%.

Chair Gilbert said there was mention in the ASCC report that the plan was to restore the cement walkway to the mailbox, which would place concrete directly on top of the oak tree roots. She said when she visited the site, the view from the deck was the street. She asked why the applicant did not position the deck behind the building, where it would have a view of the redwood grove and be within the building envelope. The applicant said the deck in front has a beautiful view of the open space across the street and the hills.

With no further questions, Chair Gilbert invited public comment. Hearing none, Chair Gilbert brought the item back to the Commission for discussion.

Chair Gilbert said one of the tenants, TSG, said their business includes Portola Valley, Woodside, and Los Altos, and they intend to secure more than 50 percent of their business based upon long-term relationships with residences and businesses from the Town of Portola Valley and its area of influence. She asked the applicant regarding the extent of the business for Pacific States Capital. John Hansen said they own property in Portola Valley and continue to operate and develop here, and have a real

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estate brokerage that will also be operated here. He said their clients include Portola Valley, Menlo Park, and Redwood City. He said they hope to do more business in Portola Valley and said their office in Portola Valley is their only physical presence on the Peninsula.

Commissioner Hasko asked regarding the basis for Finding #5 for the deck variance. Planning Director Pedro said because this is the Portola Road Scenic Corridor, having a structure there would have some visual impact, which is counter to the intent of the ordinance to provide an open, unimproved corridor.

Commissioner Goulden said he looks at the General Plan as being the guidance for the spirit of the Code. He said it is apparent that special allowances were historically made for this property. He said the low deck is not allowed by Code, but a patio is; however, he does not think the intent was that a patio is good and a deck is bad. He said the Code isn't going to catch everything in these older properties and special accommodations may be necessary.

Chair Gilbert asked staff to comment on why decks and patios are considered differently. Planning Director Pedro said patios at grade level are visually less intrusive than raised decks. She said there are certain types of structures that are allowed in setbacks, such as paths and driveways. She said decks are considered structures, and this definition is enforced for every project and is not unique to this property.

Commissioner Von Feldt said the ability to grant the variance hinges on the oak tree being in close enough proximity to where the proposed improvement is to take place. She said absent an arborist report saying that a concrete pad will hurt the oak, or that there is no other appropriate solution (such as flagstone, gravel, pavers, etc.), and because there is concrete actually being poured much closer to the oak than where a patio would be placed, she has a difficult time finding that this is a special circumstance compared to other projects in the area. She said the redwood tree is unusual, but the proximity to the oak is not.

Commissioner Hasko agreed with Commissioner Von Feldt and said there is an inherent contradiction with pouring concrete right next to the oak tree and then asking for special consideration of a deck that will be placed further from the oak tree. She would encourage rethinking the location of the concrete path for the health of the tree. She said she would want to prioritize protecting the tree if that is a concern. She said, however, this is not a large structure and she could not make a finding that it is materially detrimental on an aesthetic basis. She said the issue is in finding that there is a special circumstance with regard to protecting the tree.

Commissioner Goulden asked if there would be any issue with the deck if it weren't in the setback. Planning Director Pedro said if the deck was within the building envelope there would not be an issue.

Commissioner Von Feldt expressed concern that granting this variance could be precedent setting. If the Commission finds that the proximity of an oak tree is considered a hardship for granting setback variances, it will set a precedent for similar projects near oak trees in the future.

Chair Gilbert said if the oak tree wasn't there, the applicant would still need a variance for the deck.

Vice Chair Targ said he would not have a basis to establish hardship to allow the deck if the oak tree wasn't there. He said he was dismayed there was no arborist report even though the Commission made clear that granting a variance based on the oak tree was an issue. He said the ASCC are knowledgeable and have expertise about the nature of oak trees so he could rely on their recommendation. He said a motion might be made conditioned upon supplemental documentation by an appropriately qualified arborist identifying that a patio would be harmful to the root system of the oak

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tree in a way that the deck would not. He said the arborist report would establish the basis for granting a variance in this case as opposed to granting a variance to some other project for a deck or structure in the Scenic Corridor.

Planning Director Pedro said the proposed deck wraps around the addition, and a portion of it is actually quite far from the oak tree. She said if the Commission is concerned about protecting the oak tree, a 44-square inch landing is all that is required to serve the structure. Planning Director Pedro said the applicant has not presented alternatives other than a deck or patio. She suggested there are other ways to provide usable outdoor spaces such as wood chips or gravel.

Chair Gilbert said she was liaison to the ASCC during their discussions of this application. She said the ASCC was very uncomfortable discussing the variances and did not go through the findings but rather, commented more generally, and they were split in their opinions. She said she has problems with Findings 1, 2, and 3, because this is design driven. A deck is not required, it was not preexisting, and there are alternatives. She said the proposal includes running a concrete path next to the oak. The prior building had a concrete patio in front of it, which was just slightly further from the tree. The corner of the proposed deck is 15 feet outside the dripline of the oak. She said the addition in the back is very close to tree driplines. The gravel path goes up to the dripline of the redwoods. She said she is very concerned about allowing design-driven variances, particularly when there are acceptable alternatives.

Commissioner Von Feldt agreed with Chair Gilbert that she cannot make Findings 1, 2, or 3.

Vice Chair Targ said he does not have a problem with design-driven variances provided it is good design, and the ASCC's decision was that it is good design. He said provided it is a good design, as determined by the ASCC, and the Planning Commission can make the finding of an identified hardship or special circumstance, he could support the variance. He said, however, there is an open question regarding the hardship or special circumstance that he would like resolved.

Chair Gilbert said when she referred to design-driven, she meant there are alternate designs that would not require the variance. Vice Chair Targ said alternative designs can always be done but would result in a diminished project. He said he is relying on the ASCC's approval of the design and wants to see something in writing from an appropriately credentialed arborist supporting the hardship.

Planning Director Pedro said if the applicant had submitted an arborist report that says the proposed patio would harm trees on the property, staff would require that the patio be reduced in size or redesigned to mitigate the harm done to the trees rather than look to grant a variance to accommodate the structure.

Vice Chair Targ said he appreciated Planning Director Pedro's comments. He said in this case, the ASCC has made a decision supporting the deck based on aesthetics. He said the ASCC could have made a decision to reduce or propose an alternative to the deck, but they didn't do that.

Planning Director Pedro said if the Commission votes to approve the deck variance, they should articulate the six required findings.

Commissioner Von Feldt said she would like to talk to the arborist.

Chair Gilbert asked if the Commission could give a conditional approval of a variance.

Planning Director Pedro said if the Commission would like additional information before deciding on the deck variance, the applicant could return with the variance request when they have obtained an arborist report.

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Vice Chair Targ said the motion could be continued to the next meeting so the applicant can return with the arborist report.

Commissioner Von Feldt said it will be an uphill battle for her to make the findings to approve this variance. She said if the arborist says this is the only solution, then she could support it, but she does not think this deck is the only solution to protect this tree.

The applicant said it is not their intent to jeopardize the health of the trees on the site. He said he was not present at the previous meeting. He said if he had been aware there was concern about that oak tree, he would have brought documentation by the arborist to this meeting.

Chair Gilbert said she is skeptical since the arborist is already okay with the gravel parking lot in the back being very close to the other trees. She said she will be interested to see what the arborist says in terms of what does affect the roots of the oak tree.

Commissioner Goulden said the arborist should also address the concrete walkway. Chair Gilbert said they want to get all the information they need to make a decision. She suggested the arborist attend the meeting so the Commission can ask questions.

Commissioner Hasko moved to continue the setback variance for the deck to a future Planning Commission meeting. Seconded by Commissioner Goulden; the motion carried 5-0.

Commissioner Hasko moved to find the project exempt from CEQA pursuant to Section 15303A of the CEQA guidelines. Seconded by Commissioner Goulden; the motion carried 5-0.

Commissioner Goulden moved to approve the Conditional Use Permit as amended. Seconded by Commissioner Hasko; the motion carried 5-0.

Commissioner Von Feldt moved to approve the setback variance to relocate the floor area as amended and according to the findings as called out in the staff report. Seconded by Vice Chair Targ; the motion carried 5-0.

Commissioner Hasko moved to approve the site development permit conditions of approval. Seconded by Commissioner Von Feldt; the motion carried 5-0.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

Commissioner Von Feldt said the Conservation Committee's Native Garden Tour occurred this past weekend, and it was quite successful, with approximately 75 to 100 visitors. She said there were eight Town properties on the tour.

Vice Chair Targ said he appreciated the staff and Town Manager hosting the joint ASCC/Planning Commission training session and the follow-up meetings.

APPROVAL OF MINUTES: March 15, 2017.

Commissioner Hasko moved to approve the minutes of the March 15, 2017, meeting, as amended. Seconded by Vice Chair Targ, the motion carried 5-0.

ADJOURNMENT [8:29 p.m.]