



TOWN OF PORTOLA VALLEY

7:00 PM – Special Meeting of the Planning Commission
Wednesday, April 21, 2021

**THIS SPECIAL MEETING IS BEING HELD
VIA TELECONFERENCE ONLY**

SPECIAL MEETING AGENDA

Remote Meeting Covid-19 Advisory: On March 17, 2020, the Governor of California issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings telephonically or by other electronic means. Pursuant to the statewide Shelter-In-Place Order issued by the Governor in Executive Order N-33-20 on March 19, 2020; and the CDC's social distancing guidelines which discourage large public gatherings, Portola Valley Town Council and other public board, commission and committee meetings are being conducted electronically. The meeting are not available for in-person attendance. Members of the public may attend the meeting by video or phone linked in this agenda.

Below are instructions on how to join and participate in a Zoom meeting.

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Please select this link to join the meeting:

<https://zoom.us/j/99554851766?pwd=THEvNW92V3pOWG5uRDJ6MkZxTmNDQT09>

Or: Go to Zoom.com – Click Join a Meeting – Enter the Meeting ID

Meeting ID: 995 5485 1766 **Passcode:** 932961

Or Telephone:

1.669.900.6833

1.888.788.0099 (toll-free) Enter same Meeting ID

*6 - Toggle mute/unmute.

*9 - Raise hand.

Remote Public Comments: Meeting participants are encouraged to submit public comments in writing in advance of the meeting. Please send an email to Laura Russell at russell@portolavalley.net by 12:00 PM on the day of the meeting. All comments received by that time will be distributed to Commissioners and included in the public record.

We encourage anyone who has the ability to join the meeting online to do so. You will have access to any presentations that will be shown on your screen and can easily ask questions using the "raise your hand" feature when the Chair calls for them.

7:00 PM - CALL TO ORDER AND ROLL CALL

Commissioners Goulden, Hasko, Targ, Vice-Chair Kopf-Sill, Chair Taylor

ORAL COMMUNICATIONS

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

NEW BUSINESS

1. [Accessory Dwelling Unit \(ADU\) Municipal Code Amendment for Compliance with State Law \(C. Silver and L. Russell\)](#)

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

2. Commission Reports
3. Staff Reports

APPROVAL OF MINUTES

4. [Planning Commission Meeting of April 7, 2021](#)

ADJOURNMENT

ASSISTANCE FOR PEOPLE WITH DISABILITIES

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

AVAILABILITY OF INFORMATION

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 Library located adjacent to Town Hall.

PUBLIC HEARINGS

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



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Planning Commission

FROM: Laura C. Russell, Planning and Building Director
Cara E. Silver, Town Attorney

DATE: April 21, 2021

RE: Discussion of Accessory Dwelling Unit Ordinance Updates Required by State Law

RECOMMENDATION

Staff recommends that the Planning Commission receive an introductory presentation from staff, ask questions, receive public comments and discuss State-required updates to the Accessory Dwelling Unit Ordinance.

BACKGROUND

The Town of Portola Valley has addressed the creation of Accessory Dwelling Units (ADUs) several times in response to Town Council priorities and State law changes. In 2016, after expanding zoning to accommodate ADUs in more districts and increasing the size of ADUs allowed, the Town Council adopted a Housing Strategic Plan that requested a study on further expanding ADU construction. Two convenings were held in 2018 to receive input on how the housing crisis was affecting residents and to gather ideas from residents on how ADUs could help relieve local housing issues.

Town's 2019 ADU Ordinance

In late 2018 and early 2019, the Planning Commission conducted a series of public hearings to discuss additional local code amendments to incentivize ADU production. On February 6, 2019, the Planning Commission forwarded a unanimous recommendation to the Town Council for a comprehensive ADU ordinance update. On March 27, 2019, the Town Council approved the new ADU ordinance containing the following new elements:

- Zoning District. ADUs permitted in all zoning districts, and on all parcel sizes, with the exception of certain parcels smaller than one acre, where fire safety access is limited.

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- ADU Size. Maximum ADU size increased to 1,200 square feet for parcels less than 3.5 acres and 1500 for parcels of 3.5 acres or more. Parcels still subject to overall AMFA with property owner deciding how to allocate between main residence and ADU.
 - Basement. Basement floor area treated the same, whether under a house or an ADU, with regards to AMFA. This brings ADU regulations into consistency with existing regulations for house basements. However, floor area in a basement under an ADU would still be considered part of the ADU and be limited by ADU maximum sizes, above.
 - Parking. An internal ADU would still be exempt from any parking requirement, and an external ADU would still be required to provide one dedicated parking space, with one exception. An external ADU of less than 1,200 square feet on a property larger than one acre would be allowed to share a guest parking space with the ADU parking, provided all other parking requirements were met.
 - Second Address Under the new ordinance, owners could apply for a separate address for an ADU. This would allow utility companies to install separate meters and institute separate billing for each address.
 - Review. ADU permits would be reviewed at both a ministerial level by staff and a discretionary level by the ASCC. The ordinance would also create a review process in between these two levels, called Staff Discretionary Review, in order to streamline ADU permit processing while maintaining context-sensitive review.

2020 State Law Updates

In an additional effort to further reduce barriers to ADU construction, the State of California adopted further amendments to Sections 65852.2 and 65852.22 of the Government Code. These changes went into effect January 1, 2020. Because the Town was in the process of updating its Code around the time the new State bills were being considered, the Town's 2019 comprehensive update addressed many of the state law changes. Where there are inconsistencies, the state law takes precedence over the local regulations. Now that staff has had time to review and implement both sets of regulations, we have determined further updates are needed to better align the Town's local regulations with the latest State law changes.

While the State does not require jurisdictions to amend their ordinances to reflect the 2020 updates, staff believes that doing so provides greater clarity to residents seeking to construct an ADU in Town and underscores the town's commitment to increasing housing availability. It also allows the Town to enforce local regulations tailored to the Town's existing character and topography.

At this meeting, staff requests that the Planning Commission review the proposed Municipal Code amendments regarding accessory dwelling units, receive public comment and provide input to staff on the underlying policy issues. The Town Council has final decision-making authority on all the proposed changes. Next steps and future meeting dates are discussed on the last page of this report.

DISCUSSION

Summary of 2020 State Legislation

A number of changes to state law went into effect on January 1, 2020 as a result of AB-881, AB-68, SB-13, AB-670, and AB-671. The most notable changes are:

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- The number of ADUs that must be allowed per single-family residence is increased from 1 ADU to 1 ADU and 1 JADU. Under previous law, towns could decide whether or not to permit JADU's.
 - Jurisdictions are prohibited from establishing a maximum ADU size that is less than 850 square feet, or 1000 square feet if the ADU has more than 1 bedroom.
 - Towns are required to approve three categories of ADUs (referred to as "state exemption ADUs"):
 - *New Construction*: an ADU of up to 800 square feet, 16 feet in height, and 4 foot rear and side setbacks regardless of local development standards
 - *Conversions*: an ADU or JADU may be created by converting existing space within an existing single-family building or accessory structure.
 - *Multi-family ADUs*: Two detached ADUs may be permitted on lots containing a multi-family building.
 - Side and rear yard setbacks of 4 feet for ADUs
 - If a covered garage, carport or covered parking structure is converted into an ADU, replacement parking cannot be required.
 - If an existing structure is removed and rebuilt as an ADU, the setback is preserved.
 - ADUs may be added to multi-family dwellings.
 - Owner-occupancy requirements are exempted for ADUs approved between January 1, 2020 and January 1, 2025.
 - Impact fees are prohibited for ADUs smaller than 750 square feet and limited for ADUs 750 square feet and larger.
 - The maximum ministerial approval period for ADUs and JADUs is shortened from 120 days to 60 days.
 - There is now a 5 year grace period for an unpermitted ADU to comply with relevant codes, except where it is a matter of health and safety.

Many of the above changes relate to relaxed parking and setback requirements as they tend to be the primary barrier to ADU construction. The State's relaxation of parking requirements will likely not have much impact in Portola Valley where lots can generally accommodate necessary parking. The relaxed setback requirements, however, could have impacts and staff is recommending an approach to address some of those impacts.

These state law changes are currently in effect and take precedence over any contradictory language in the existing ordinance. Despite this, staff feels it is important to update the ordinance to accurately reflect current state law in the interest of transparency, in light of the Town's longstanding interest in facilitating the creation of ADUs and JADUs, as well as in response to resident interest in ADU and JADU regulations.

Guide to Staff Report

This report is meant to assist the Planning Commission, Town residents, and any other interested parties in understanding the revisions suggested by Staff in order to incorporate changes in state law.

The majority of the proposed changes are required by State law. However, staff is also suggesting some changes that will help administer the ordinance and address local conditions. Also, where the town has discretion in the way the state law changes are implemented, staff has called this out in the report.

Each recommended change is presented with the following information:

- Current code
- Proposal
- Questions (if applicable) for the Planning Commission to consider

Every question is in bullet format, for ease of navigation. Staff's intent is to provide a clear structure for the description and consideration of each preferred issued and how it might be reflected in changes to the Town's regulations.

RECOMMENDED CODE CHANGES

1) Incentives for ADUs that comply with setbacks of zoning district

Current Code ADUs are required to meet the setbacks of the zoning district. The rear setbacks range from 20-25' and the side setbacks range from 10-25'.

Proposal State law has changed to allow 4' side and rear yard setbacks for ADUs. To mitigate the potential impacts of this change, staff proposes incentives for ADUs that comply with the setbacks of the zoning district. An applicant can create an ADU of up to 1,000 square feet (State law minimum size for two-bedroom unit) with the smaller 4' setbacks, or an ADU of up to 1,200 square feet (current Town code) if the setbacks of the base zoning district are in place. On larger parcels (3.5 acres or larger) an ADU of 1,500 square feet is allowed as long as the setbacks of the base zoning district are used. Under state law, the town may impose a maximum ADU size of 850 square feet or 1000 square feet for an ADU with more than one bedroom. The approach taken here is to allow for ministerial approval of the larger size, removing the number of bedrooms from the conversation.

In a similar vein, an applicant may have a height of up to 16' (State law limit) for an ADU that has the minimum 4' setbacks or 18' of vertical height and 24' maximum height (current Town code) for an ADU that uses the setbacks of the base zoning district.

Questions

- **Should additional square footage be allowed where there is compliance with the setbacks of the base zoning district? If so, are the limits in the current code of 1,200 square feet for smaller parcels and 1,500 square feet for larger parcels the appropriate numbers?**
- **Should number of bedrooms be considered so that the maximum ADU size may be 850 square feet in some cases and 1,000 in others?**
- **Should additional height be allowed by right where there is compliance with the setbacks of the base zoning district? If so, is 18 feet of vertical height and 24 feet maximum height the appropriate number?**

2) Codification of "State Exemption" ADUs

Current Code ADUs must comply with the Adjusted Maximum Floor Area (AMFA) and impervious surface requirements of the base zoning district.

Proposal State law now allows three specific types of ADUs regardless of the otherwise applicable development standards. The most impactful is the allowance for new construction of one ADU up to 800 square feet, 16 feet in height, and 4' side and rear setbacks to exceed the floor area and impervious surface limits otherwise in place. In addition, State law now allows an ADU or JADU to be created by converting existing space within an existing single-family building or accessory structure. Less relevant to Portola Valley, State law also permits two detached ADUs on lots containing a multi-family building. While still subject to regulations like building codes and health and safety laws, a properly completed application for such an ADU is subject to ministerial review only, and with a very strict timeline as discussed above. The provisions pertaining to size, height, and setbacks appear elsewhere in the code, but the State Exemption ADUs are specifically called out to be transparent to reflect the fact that these ADUs are expressly permitted by the State.

3) Add language to allow for Junior Accessory Dwelling Units (JADUs)

Current Code JADUs are defined as a portion of a single family home that is separately leased to a tenant. Traditionally, this space has a kitchenette, rather than a full kitchen, and is most typically a bedroom. A JADU may have its own bathroom or may share with the main building. The code does not expressly permit JADUs.

Proposal The concept of the JADU has expanded over time. Now that state law allows for one ADU and one JADU per single family parcel, references to "JADUs" have been added where necessary to clarify the provisions in the ordinance that apply to JADUs in addition to ADUs.

4) Clarifying ministerial review

Current Code The current code sets forth that the Town Council desires to encourage the creation of ADUs to help meet its housing needs and goals. Recent state law changes underscore the importance of ministerial review in order to reduce barriers to ADU and JADU creation.

Proposal Amendments in several areas endeavor to increase the clarity of what requires ministerial review. Ministerial review is addressed in the following sections:

- 1. B. 1. a. "Encourage the development of ADUs and JADUs through a ministerial approval process" has been added to emphasize compliance with State law. While this does not reflect a policy change, it seeks to clarify the town's intent for residents who might be unfamiliar with this code.
- 1. B. 4. b. "State Exemption ADU" provision added to clearly describe the minimum ADU allowed through ministerial review. This section sets forth what is allowed by right in terms of new construction, conversions, and multi-family ADUs.
- 1. B. 5. a "Types of Review- Ministerial Review." Ministerial review was already established in this section, however as noted above, the town must now give a decision within 60 days instead of 120. As a practical matter, language was added to clarify that an application for an ADU or JADU may not be deemed complete until a permit has

been granted on the main building that serves as the basis for the ADU or JADU application.

- 1. B. 6. a. “Assignment of Review Responsibilities- Ministerial Review.” The existing code lists type of review in order from most discretionary down to ministerial. In order to reflect the town’s encouragement of applications that are subject to ministerial review, the order has been reversed. Ministerial review is set forth first, followed by staff discretionary review, and lastly ASCC review.

5) Timing for ministerial review

Current Code As mentioned above, the current code states that an application for ministerial review of an ADU shall be decided within 120 days of having been received.

Proposal The state has shortened the town’s allowed response time from 120 to 60 days. Applications that are not decided within 60 days are deemed approved. The proposed amendment reflects this change in timing and clarifies that the time clock starts upon receipt of a completed application. In order to remove possible confusion where a new main building is being proposed at the same time, the amendment clarifies that the application for an ADU or JADU shall be considered complete once the permit for the main building has been granted. This provision mirrors language in state law and prevents the unintended consequence of an ADU or JADU having to be approved, as a result of the 60 day time limit, before the related main building has been approved.

6) Revise and add definitions

Current Code The current code defines terms that are particularly relevant to the ordinance.

Proposal As described below, state law changes have rendered some of the definitions out of date and introduced terms that are not currently defined:

- 1. B. 2. a. “Accessory Dwelling Unit.” This definition has been updated to mirror the state law definition. It clarifies that the ADU shall be “located on a lot with a proposed or existing primary residence” and “on the same parcel as the single-family or multi-family dwelling.” It also clarifies that the definition of “ADU” includes efficiency units and manufactured homes, as set forth in state law.
- 1. B. 2. e. “Efficiency Kitchen.” This definition has been added in response to the local requirement that JADUs contain an efficiency kitchen, which is discussed in detail below.
- 1. B. 2. h. “Junior Accessory Dwelling Unit.” The definition of JADU has been expanded to mirror the updated state law definition. State law permits jurisdictions to make their own determination on whether a JADU should be required to have an efficiency kitchen, separate entrance, and/or an owner occupancy requirement. This issue is discussed in more detail below.
- 1. B. 2. k. “Multi-Family Structure.” This section has been added to the definitions as it is relevant to ADU law and was not previously contained in the code.

7) Clarifying exceptions for fire safety and geologic and ground movement concerns

Current Code The existing ordinance prohibits ADUs on parcels smaller than one acre whose direct vehicular access is from a road or cul-de-sac which (1) has a single point of ingress/egress and (2) has a width of less than eighteen feet. This provision, the product of much discussion and consideration, is a practical reflection of the fire safety concerns and necessity for adequate emergency vehicle access and evacuation routes unique to these areas.

Proposal While the current code reflects fire safety considerations, it is silent with respect to the geologic and ground movement concerns that may be substantial in this unique area. State law allows for restrictions on ADU and JADU creation where there are material health and safety concerns. Since the town has done significant work to map unstable geologic areas, the code has been updated to state that ADU and JADU creation may be restricted where there are potentially unsafe conditions in an effort to provide the most clarity for potential applicants. These conditions are tied to the town's Geologic and Ground Movement Maps.

- 1. B. 3. b. "Public health and safety exception." This section sets forth that ADU creation may be limited where there are material topographic, geologic, and ground movement concerns. The Town has created two maps that identify areas of significant geologic and ground movement risk. ADUs and JADUs sited in these high-risk areas would be subject to the Town's policies for development rather than State law. The process would typically require discretionary review by the Planning Commission and processing timelines that exceed 60 days.

Question

- **Does this exception adequately address geologic concerns?**

8) Parking requirements

Current Code At present, the code is not instructive on the issue of replacement parking when a garage, carport, or other covered parking structure is demolished to create an ADU.

Proposal A provision has been added to make it clear that replacement parking is not required when a garage, carport, or other covered parking structure is demolished or converted in conjunction with the construction of an ADU. This comports with state law, which prohibits the town from requiring replacement parking in such circumstances.

9) Requirements for JADUs

Current Code The current code defines terms that are particularly relevant to the ordinance.

Proposal As mentioned above, state law permits jurisdictions to determine whether a JADU is required to have an efficiency kitchen, separate entrance, and/or an owner occupancy requirement. Staff is recommending the inclusion of an efficiency kitchen to allow flexibility in shared housing opportunities.

An "efficiency kitchen" is defined as "a space containing a sink with a maximum waste line diameter of 1.5 inches, a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU."

Staff is recommending an owner occupancy requirement for JADUs to be consistent with the Planning Commission's past preference for such requirements.

Questions

- **Should JADUs be required to have an efficiency kitchen?**
- **Should JADUs be required to have a separate entrance from the main building?**

10) Authorization for Planning and Building Director to make interpretations, rules, and regulations

Current Code The current code is silent with respect to how minor interpretations, rules, and regulations shall be made with respect to this ordinance.

Proposal No ordinance can predict every possible scenario, and staff is regularly tasked with making minor interpretations, rules, and regulations pursuant to this code. In addition, state law, particularly in rapidly-evolving areas like ADU creation, continues to resolve details that may not have been apparent at the time the law went into effect. For these reasons, a provision has been added to clarify that the director of planning has the limited authority to establish reasonable interpretations, rules, and regulations and to update or amend permit application requirements, forms, or checklists that are necessary or useful in complying with state law and/or other town ordinances. There is a requirement that any such actions must be in writing and posted on the town's website. In this way, the director of planning can ensure that the town's ordinance continues to operate in compliance with state law and with full transparency for the public.

Questions

- **Should the director of planning be granted this limited authority, or is there a different mechanism preferred?**

11) Floor area calculations- basements under ADUs

Current Code After much deliberation, the Planning Commission previously recommended that basements under ADUs not count towards AMFA, consistent with basements under main buildings. The intent was to not penalize ADUs projects and make the Code more consistent. The Code does not require the basement to have internal access, such as a staircase, to the upper floor ADU.

Staff has observed a potential consequence of that policy. As an example, applicants can propose a 1,200 square foot ADU at ground level with a complete basement under the ADU that has access via a staircase to the outside. The result is that the applicant can have 1,200 square foot of basement that can be used for living area without counting towards AMFA or the ADU floor area limit. Additionally, an applicant may propose a State Exemption ADU of 800 square feet that exceeds the AMFA and include a full basement under it that also does not count.

Proposal Language has been added saying that Basements located under an ADU that do not have internal access to the ADU are discouraged and shall be counted towards AMFA calculations.

Question

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- **Should basements under ADUs that do not have direct internal access to the ADU be discouraged, and if so, is this the best approach?**

12) Setbacks

Current Code Existing law requires ADUs to conform to the setbacks of the underlying zoning district. There is a modest exception for ADU conversion of non-conforming garages.

Proposal In order to bring the ordinance into compliance with state law, the following changes have been made:

- 1. B. 4. j. ii. State law has changed the maximum side and rear setbacks to 4', hence this amendment to clarify that the town complies with state law. The town may allow for setbacks of less than 4', but may not require setbacks of more than 4'.
- 1. B. 4. j. iv. This provision serves as a reminder that standards related to fire safety, geology and topography, and public health and safety in general remain in effect, regardless of the state's emphasis on removing barriers to ADUs. Where the state minimum 4' setback is not possible due to a legitimate safety concern, an additional setback may be required.

13) Owner occupancy requirements

Current Code The existing ordinance states that either an ADU or the main building must be owner occupied. The other unit may be rented.

Proposal Pursuant to new state law, the town may not enforce owner occupancy requirements on an ADU approved between January 1, 2020 and January 1, 2025. The state's intention is to remove a possible barrier to ADU creation by allowing an owner to rent both units while living elsewhere. Owner occupancy requirements for ADUs created outside of this time period are still valid and enforceable. The code has been narrowly amended to remove owner occupancy requirements for the minimum amount of time dictated by state law.

Where a parcel has both a JADU and an ADU, the town may require the owner to occupy either the JADU or the main building. This amendment chooses to leave that owner occupancy requirement in place based on the Planning Commission's past preference for owner occupancy requirements, although it is also possible to remove this requirement for JADUs, as it has been removed for ADUs.

Questions

- **Should there be an owner occupancy requirement for JADUs?**

NEXT STEPS

Staff will incorporate the Planning Commission's direction into the draft of the ordinance and return to the Planning Commission for a public hearing. The next Planning Commission meeting on this topic is tentatively scheduled for May 19th. The Planning Commission will make a recommendation to the Town Council for their consideration and the Town Council will make the final decision on the proposed amendments.

ATTACHMENTS

1. Draft Ordinance updating the Town's Accessory Dwelling Unit Ordinance

ORDINANCE NO. 2021 – _____

**ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
PORTOLA VALLEY AMENDING SECTION 18.36.040 [ACCESSORY USES]
OF CHAPTER 18.36 [USES PERMITTED IN ALL DISTRICTS] OF TITLE 18
[ZONING] OF THE PORTOLA VALLEY MUNICIPAL CODE**

WHEREAS, the State of California recognizes the potential for Accessory Dwelling Units (ADU) as a housing strategy, and has passed several laws to lower the local regulatory barriers to construction; and

WHEREAS, in Portola Valley ADUs can provide additional affordable housing opportunities in order to satisfy the Town's Regional Housing Needs Assessment while maintaining the rural character of the Town and not increasing fire risk; and

WHEREAS, on May 9, 2018 the Town Council of the Town of Portola Valley did adopt an ordinance amending Title 18 [Zoning] to comply with the requirements of State law; and

WHEREAS, on March 27, 2019 the Town Council of the Town of Portola Valley further updated its ADU ordinance to comply with additional requirements of State law; and

WHEREAS, effective January 1, 2020, the State adopted further amendments to Sections 65852.2 and 65852.22 of the Government Code requiring towns to further reduce potential barriers to Accessory Dwelling Unit and Junior Accessory Dwelling Unit creation; and

WHEREAS, in many respects the Town's 2019 update goes beyond the current state law requirements. However, the recent round of legislative changes requires some further updating; and

WHEREAS, Section 65852.2 of the Government Code further enables local governments to go beyond the minimum requirements of said statute to encourage ADUs; and

WHEREAS, the Town Council desires to further encourage the creation of Accessory Dwelling Units to help meet its housing needs and goals; and

WHEREAS, [ADD fire safety and geologic findings]

WHEREAS, on _____, the Planning Commission held a public hearing to review the proposed ordinance regarding Accessory Dwelling Units at which all interested persons had the opportunity to appear; and

WHEREAS, on _____, the Town Council held a public hearing, and after considering the entire record of proceedings, including but not limited to, the staff report and all written and oral comments received and the Planning Commission recommendation, the Town Council voted to approve the ordinance.

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

1. AMENDMENT TO CODE. Section 18.36.040 [Accessory Uses] of Chapter 18.36 [Uses Permitted in All Districts] of Title 18 [Zoning] of the Portola Valley Municipal Code is hereby amended to read as follows:

- A. An accessory use is a related minor use which is either (a) necessary to the operation or enjoyment of a lawful principal use or conditional use, or (b) appropriate, incidental and subordinate to any such use. No use in any district shall be permitted as an accessory use which is not qualified as hereinabove set forth, or which constitutes in effect a conversion of a principal use to one not permitted in that district. This section shall apply to new construction and replacement fixtures. In addition to other uses meeting the qualifications set forth in this section, and subject to the limitations set forth in this title, the following accessory uses are permitted in all districts when located on the same parcel as the principal use:
1. The installation and operation of necessary facilities and equipment in connection with such schools and other institutions as are permitted in the respective district;
 2. Recreation, refreshment and service buildings in public parks;
 3. Required off-street parking spaces and required off-street loading spaces as regulated by this title;
 4. Fences and walls subject to the height and area regulations of this title;
 5. Hedges, trees, shrubs and other ornamental planting;
 6. Horticulture;
 7. Electric and communication service lines provided that all such lines are placed underground except where exempted in accordance with the procedure set forth in subsection B of Section 18.36.010;
 8. Outdoor Illumination [See Ordinance No. 2018-424, adopted on August 8, 2018, for full text].
 9. Septic tanks and drain fields;
 10. Antennas designed to receive television or microwave signals transmitted from satellite or terrestrial stations. Antennas with diameters exceeding four feet are subject to review by the architectural and site control commission as provided for by paragraph 6 of subsection A of Section 18.64.010.

11. Tennis courts and paddle tennis courts, provided the sum of the maximum depth of cut and maximum height of fill for such facilities shall not exceed the following:

Parcel Area	Combined Cut & Fill Feet
1.0 ac. or less	8
1.2 ac.	9
1.4 ac.	10
1.6 ac.	11
1.8 ac. or more	12

B. Accessory Dwelling Units and Junior Accessory Dwelling Units.

1. Purpose. The purpose of this section is to define accessory dwelling units (ADUs) and Junior Accessory Dwelling Units (JADUs), and describe their development standards, review required, and additional regulations. ADUs and JADUs are allowed in certain situations in order to help achieve the town's goals which include but are not limited to:
 - a. Encourage the development of ADUs and JADUs through a ministerial approval process;
 - a. b. Create new housing units while respecting the existing character of the town;
 - b. c. Provide housing that responds to residents' changing needs, and household sizes, and increasing housing costs, and provide accessible housing for seniors and persons with disabilities;
 - c. d. Offer environmentally friendly housing choices with less average space per person and smaller associated carbon footprints; and
 - d. e. Promote provision of affordable housing for people who work in town.
2. Definitions. The following definitions shall govern this section.
 - a. Accessory Dwelling Unit, or ADU. An attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes:
 - i. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

- i. ii. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- ii. iii. Internal ADU. Created by converting existing or proposed interior space of a single-family dwelling, such as bedrooms, attached garages, basements or attics, or a combination thereof. Converted space can also be within an existing accessory structure.
- iii. iv. External ADU. A unit which requires new construction, either attached to or detached from the main building.
 - 1. Attached ADU. A unit which is attached to or part of the main building. Attached ADUs include new construction which is attached to the existing building, and a mix of new construction and converted space.
 - 2. Detached ADUs. A separate building, independent from the main building, built using new construction.
- b. Adjusted Maximum Floor Area, or AMFA. The maximum allowed floor area for a residential parcel, calculated by the town using the parcel's size, slope, mapped ground movement potential, and mapped flooding potential.
- c. Director. Planning and building director, also referred to as the town planner.
- d. Discretionary Review. Review of a project against the General Plan, municipal code, and Design Guidelines. The reviewing body exercises judgment in applying policies to a specific project in context and determining whether the required findings for approval can be made. The reviewing body considers public comment and may impose conditions of approval on the project.
 - i. Staff Discretionary Review. A review process wherein the planning and building director shall review certain accessory dwelling unit applications in coordination with one member of the architecture and site control commission (ASCC).
 - ii. Architectural and Site Control Commission, or ASCC. A review process wherein the full ASCC reviews projects at a public meeting.
- e. Efficiency Kitchen. A space containing a sink with a maximum waste line diameter of 1.5 inches, a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
- f. Existing Interior Space. For the purposes of internal ADU creation, existing interior space shall be within a building that was permitted by the town and passed its final building inspection.

- g. Guest House. A building separate from the main residence which includes a bedroom and may include a bathroom, but does not include a kitchen.
 - f. h. Junior Accessory Dwelling Unit, or JADU. A unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A JADU shall include an efficiency kitchen and may include separate sanitation facilities. A JADU shall have a separate external entrance from the main building. Junior accessory dwelling units do not constitute ADUs under this code.
 - g. i. Main building. The building to which an ADU is accessory. Main buildings can have a residential or non-residential use, as permitted by this title.
 - j. Ministerial Review. A review process which is objective in nature and involves no personal judgment. The reviewing body confirms that all requirements are satisfied before approving a project, and may not consider public comment or impose conditions of approval.
 - h. k. Multifamily structure. For the purpose of this section only, a structure with two or more attached dwellings on a single lot is considered a multifamily structure. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings for the purposes of state ADU law.
 - i. l. Second Address. An address issued by the planning and building department for a permitted accessory dwelling unit on a parcel that has an existing unit with a different address.
 - j. m. Second Unit. See accessory dwelling unit.
3. Applicability. ADUs and JADUs shall be permitted on all parcels in all zoning districts, where a main building is in existence or is proposed concurrently.
- a. Fire safety exception. ADUs are prohibited on parcels smaller than one acre whose direct vehicular access is from a road or cul-de-sac which (1) has a single point of ingress/egress and (2) has a width of less than eighteen feet.
 - b. Geologic safety exception. ADUs are prohibited where construction is not permitted under Resolution No. 2746-2017 which governs construction on or near earthquake faults and traces and areas subject to active downslope movement as shown on the town's Geologic and Ground Movement Potential maps as updated from time to time.
4. Development Standards. All existing development restrictions in the base zoning district shall apply, except as modified by this section. These requirements include but are not limited to coverage, open space, bulk, density, floor area and adjusted maximum floor area, impervious surface,

height, setbacks, parking, site development, and outdoor lighting requirements.

a. Number.

- i. One ADU and one JADU shall be permitted on all parcels smaller than 3.5 acres in size.
- ii. Two ADUs shall be permitted on parcels 3.5 acres or larger in size as follows: one ADU must be detached from the main building, and one ADU must be internal. A JADU shall be permitted in lieu of an internal ADU.

b. State Exemption ADU. As required by State law, any parcel zoned residential or mixed-use permitting residential shall be permitted to build one of following applicable ADUs. The following ADUs shall be subject to ministerial review and are not subject to the town's lot coverage, AMFA, setback, height, or size standards. However, the safety exceptions in Section 3a and 3b above shall apply.

- i. New construction. One detached ADU of up to 800 square feet, 16 feet in height, and with 4 feet side and rear yard setbacks is allowed on residential lots containing one existing or proposed single-family dwelling.
- ii. Conversions/Interior units. One ADU or one JADU are permitted per lot within the existing or proposed space of a single-family dwelling or an existing accessory structure that meets the following requirements: contains exterior access and setbacks sufficient for fire and safety.
- iii. Multi-family ADUs. At least one ADU and up to 25 percent of the existing multifamily structure may be developed as an ADU within the portions of a multifamily structure not used as livable space. Alternatively, up to two detached ADUs on a lot that has an existing or proposed multifamily structure, subject to height limits of 16 feet and 4 feet side and rear yard setbacks.

c. Floor Area Limits

- i. Floor Area. The minimum size of an ADU or JADU shall be defined by the California Building Code. The maximum size shall be:
 1. One thousand square feet for external ADUs subject to ministerial review.
 2. Twelve hundred square feet for external ADUs subject to ministerial review on parcels smaller than 3.5 acres in size where the proposed ADU complies with the setbacks of the base zoning district.
 3. Fifteen hundred square feet for external ADUs subject to ministerial review on parcels 3.5 acres or larger in size where the proposed ADU complies with the setbacks of the base zoning district. If such

- parcel also contains an interior ADU, the maximum floor area limit of the external ADU shall not exceed twelve hundred square feet.
2. 4. Five hundred square feet for JADUs on all parcel sizes.
 3. 5. Seventeen hundred square feet for internal ADUs on all parcel sizes.
- ii. Percentage. An external ADU shall be additionally limited to fifty percent of the floor area of the existing or concurrently proposed main building, except as necessary to enable an ADU not to exceed one thousand square feet maximum.
 - iii. Adjusted Maximum Floor area and Floor Area Ratio. ADU floor area shall be limited to the maximums described at subsections 4.c.i. and 4.c.ii., or the floor area allowed by the base zoning district, whichever is more restrictive.
- d. Floor Area – Calculations
- i. Basements. Space which meets the definition of a basement (Section 18.04.065), whether under a main residence or an ADU, shall not be included in AMFA calculations. However, floor area maximums at Section 18.36.040.B.4.c and review authority at Section 18.36.040.B.6 shall both apply to basement floor area that is part of an ADU. Basements located under an ADU that do not have internal access to the ADU are discouraged and shall be counted towards AMFA calculations.
 - ii. Covered parking provided for ADUs shall be included in site AMFA calculations
 - ii. ~~Parking provided for ADUs shall not be included in floor area calculations.~~
- ~~de.~~ Height. ~~Height limitations for an ADU shall be those of the base zoning district. This includes daylight planes, where applicable. ADUs taller than eighteen feet vertical height or twenty feet maximum height, where allowed by the base zoning district, shall require staff discretionary review. The maximum height for any type of ADU shall be:~~
- i. Sixteen feet vertical height for an external ADU subject to ministerial review where the setbacks are less than those of the base zoning district.
 - ii. Eighteen feet vertical height and twenty-four feet maximum height subject to ministerial review where the setbacks comply with those of the base zoning district. This includes daylight planes, where applicable.

- ii. iii. More than eighteen feet vertical height or twenty-four feet maximum height, where allowed by the base zoning district, subject to staff discretionary review.
- e. f. Parking and Driveways.
 - i. Parking Requirement. JADUs and internal ADUs shall not require any dedicated parking spaces. External ADUs shall require one dedicated parking space, as follows:
 - 1. ADU parking may be located in a covered or uncovered space, in tandem with other parking, and/or in setbacks.
 - 2. Parking space design shall conform to Section 18.60.020, parking, dimensions and access.
 - ~~3.~~ 3. On parcels of one acre or larger where an ADU of twelve hundred square feet or less is proposed, ADU parking is not required to be dedicated. The ADU parking space may be shared, or overlap with, one guest parking space, provided the property is compliant with the current parking requirements in this title.
 - ~~3.~~ 4. When a garage, carport or covered parking structure is demolished in conjunction with the construction of an ADU, or converted to an ADU, the parking spaces for the main unit do not need to be replaced.
 - ii. Driveways. All driveways shall conform to Section 15.12.300, except the ASCC may grant an exception to the requirement that properties only have one entrance from the road and approve a second driveway when it is able to make the following findings:
 - 1. It is not feasible for the ADU to be served by the same driveway that serves the main building, taking into consideration the cost, topography and natural landscape, among other things.
 - 2. Providing a separate driveway for the ADU will result in less impervious surface for the property than would extending the existing driveway.
 - 3. It is shown that the proposed driveway:
 - a. Does not exit onto a scenic corridor or cross a trail, as mapped by the town; and
 - b. Provides for safe movements for all users, as determined by the public works director.
- fg. Materials. Color reflectivity values shall not exceed forty percent, except that trim colors and roofs shall not exceed fifty percent reflectivity.

- g. h. Landscaping. Landscape plantings shall be selected from the town's list of approved native plants and shall adhere to the town's landscaping guidelines, as described in the design guidelines.
- h. i. Lighting. All lighting shall comply with Section 18.36.040.A.8, outdoor lighting.
- i. j. Setbacks.
- i. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage. This shall apply to both conforming and legal non-conforming garages.
 - ii. Internal ADUs shall have sufficient side and rear setbacks for fire safety.
 - iii. A setback of four feet from the side and rear lot lines shall be required for an external ADU of one thousand square feet or less.
 - iv. Any ADU in excess of one thousand square feet shall comply with the setbacks of the base zoning district.
 - v. All setbacks must comply with applicable standards including those regarding fire safety, geology and topography, and public health and safety.
- j. k. Second Address. ADUs may be assigned a separate address at the property owner's request, with the exception that any ADU with an approved second driveway shall always be assigned a second address. Applicants requesting an address shall submit an application as part of the building permit submittal. The planning and building director, in consultation with Woodside Fire Protection District, shall review and approve applications.
- k. l. Utilities. When visible from the public right of way, utilities installed to serve an ADU shall be grouped with any existing infrastructure for the main building and screened to the extent feasible, as determined by the planning and building director. In determining feasibility, the planning and building director may consider cost, topography, and the natural landscape.
- i. Undergrounding. Utilities shall be required to be placed underground, as described in Section 18.36.010.B, with the following exceptions for ADUs:
 1. An internal ADU and any associated electrical service increases shall not trigger undergrounding of utilities.
 2. A detached ADU shall always underground utilities between the main house and the ADU, when connecting from the main house.

ii. Any other instance of new construction for an external ADU shall require undergrounding as stipulated in Section 18.36.010.B relating to utility undergrounding, with the exception that an applicant may apply to the ASCC for relief from these requirements, as well as the undergrounding requirement for detached ADUs at subsection 4.k.i.2, and if the ASCC thereafter finds that undergrounding is not feasible or practicable, or that there is no reasonable alternative location for the related equipment, such undergrounding requirement shall not apply. Significant financial costs, topography, and natural landscape may be included in this consideration.

l.m. ADUs must comply with applicable building code requirements, including fire sprinkler requirements, unless a modification or waiver of the fire sprinkler requirement is approved by the fire marshal. An ADU created by the conversion of existing interior space shall not be required to provide fire sprinklers if sprinklers are not required for the main residence.

4. 5. Types of Review.

- a. Ministerial Review. Ministerial review shall be completed by the planning and building director or her/his qualified designee under the building permit review process. No public hearings or noticing are required as part of this review. An ADU or JADU application which qualifies for ministerial review shall be acted upon within sixty days of the date the town receives a completed application. An ADU or JADU application made pursuant to an application for a main building may be delayed until a decision is made on the permit application to create the new main building.
- b. Discretionary Review.
 - i. Discretionary review shall be conducted by one of the following review bodies:
 1. The planning and building director shall complete staff discretionary review in consultation with an ASCC member. The director may refer items directly to the ASCC when in her/his opinion the public interest would be better served by having the ASCC conduct the review.
 2. Architectural and Site Control Committee (ASCC) review is a discretionary review completed by the full ASCC at a noticed meeting.
 - ii. Findings for Approval. The review body must be able to make all of the following findings in order to approve an ADU subject to discretionary review:
 1. The structure is designed so as to minimize disturbance to the natural terrain;

2. Existing vegetation is preserved to the maximum extent possible.
 3. The structure is designed and located to allow adequate light and air for itself and its neighbors;
 4. Landscaping, screening and fencing preserve privacy and mitigate adverse effects on neighboring properties;
 5. Entrances, exits and internal circulation shall be sited to promote traffic safety and ease and convenience of movement;
 6. Night lighting is located and fixtures chosen to promote public safety but minimize effects on adjoining properties;
 7. Planting and site design mitigate the problems of drainage and soil erosion;
 8. Materials and colors are compatible with the rural setting of the town and the surrounding landscape and structures;
 9. Proposed grading minimizes the apparent disturbance to the natural terrain;
 10. The project is consistent with the Portola Valley Design Guidelines;
 11. The physical position, massing, and architectural design of the ADU reflect that it is accessory in nature and holds a subservient position to the main building;
 12. The design of the ADU and its ingress/egress reflects their physical positions on the property, such that units on or adjacent to setbacks are designed to minimize impacts toward adjacent properties.
- iii. Notice. Minimum noticing for ADUs requiring discretionary review shall include:
1. Noticing to adjacent neighbors by the applicant, as required by the planning and building director in a form consistent with application materials published to the town website.
 2. Noticing as described by Section 18.64.085, ASCC – notification.
- c. An ADU application which is dependent on a septic tank and drain field shall be referred to and require approval of the county health officer in accordance with town policies.
- d. An ADU application which requires soil movement greater than fifty cubic yards or other work requiring a site development permit under Section 15.12.070 shall be referred to the town geologist, the town engineer, and any other review bodies necessary as determined by the planning and building director.
5. 6. Assignment of Review Responsibilities.
- a. Ministerial Review. ADUs which do not have any of the conditions listed in subsection 18.36.040.B.6.b -d, below, shall be subject to ministerial

review. All projects subject to ministerial review shall comply with all code requirements.

- b. Staff Discretionary Review. ADUs which do not have any of the conditions listed in subsection 18.36.040.B.6.c., below, and which include any of the following shall be subject to staff discretionary review. However, any State Authorized ADU defined in Section 18.36.040 B.4.b shall not be subject to discretionary review.
 - i. An internal ADU larger than twelve hundred square feet or fifty percent of the existing building, whichever is less;
 - ii. An ADU on a property adjacent to a scenic corridor;
 - iii. An ADU with a different architectural style than the main house or building;
 - iv. An ADU taller than eighteen feet in vertical height or twenty-four feet in maximum height;
 - v. An ADU with a light well larger than the minimum building code requirement;
 - vi. An attached ADU which causes the main residence to exceed eighty-five percent of the adjusted maximum floor area (AMFA), except where the proposed ADU is one thousand square feet or less;
 - ~~b.~~ c. ASCC Review. ADUs which include any of the following shall be subject to ASCC Review:
 - i. A separate driveway for the ADU
 - ii. Location in a non-residential zone.
 - iii. Location on a property with historic resources, as identified in the historic resources element of the general plan, as provided for in Section 18.31, H-R (Historic Resources) Combining District Regulations.
 - d. Geological Hazards. ADUs subject to Section 18.36.040(3)(b) (geologic safety exception) shall be subject to discretionary review consistent with Resolution No. 2746-2017, as may be amended from time to time.
- ~~6.~~ 7. Additional Restrictions. In addition to the development standards described in this section, all ADUs and JADUs shall be subject to the following restrictions:
- a. Sold Separately. ADUs and JADUs shall not be sold separately from the main dwelling;
 - b. Owner Occupancy. Where there is an ADU, either the ADU or the main building must be owner occupied. The other unit may be rented. ADUs approved between January 1, 2020 and December 24, 2024 are excepted from this requirement. Where

there is a JADU, either the JADU or the main building must be owner occupied.

- c. Rental Restrictions. On properties where an ADU or JADU is present, any rentals of the ADU, JADU, or main building shall be for a term of thirty days or more.
8. Administration.
- a. Appeals. A decision by the planning and building director or ASCC on an ADU may be appealed, if the appeal is filed within fifteen days of the decision.
 - i. A decision made by the planning and building director is appealable to the ASCC.
 - ii. A decision made by the ASCC is appealable to the planning commission.
 - b. Application Administration. The town council authorizes the planning and building director to establish permit application requirements, forms, and checklists that the director finds necessary or useful for processing any applications governed by this Chapter.
 - c. Interpretations. In addition to the standards set forth in this section, the town council authorizes the director of planning to establish reasonable interpretations, rules and regulations and update or amend permit application requirements, forms, or checklists that the director finds necessary or useful in complying with State law and/or other town ordinances. All such interpretations, rules, and regulations issued under this authority shall be in writing and shall be made publicly available on the town's website.

2. CONSISTENCY WITH GENERAL PLAN. This ordinance is found to be consistent with the General Plan of Portola Valley.

3. ENVIRONMENTAL REVIEW. Under Public Resources Code Section 21080.17, CEQA does not apply to the town's adoption of an ordinance to implement the provisions of Section 65852.2 of the Government Code (the state ADU law). The ordinance implements Government Code Section 65852.2 in a manner that is consistent with the requirements of state law. As such, the adoption of the ordinance is exempt from CEQA.

4. CONSISTENCY WITH STATE LAW. This ordinance is intended to be consistent with State law regulating accessory dwelling units and to the extent there is any inconsistency with such State law requirements, State law shall control.

5. 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.

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

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

RECUSED:

ATTEST:

Town Clerk

By: _____
Mayor

APPROVED AS TO FORM

Town Attorney

PLANNING COMMISSION
Special Teleconference Meeting**April 7, 2021****CALL TO ORDER AND ROLL CALL**

Vice-Chair Kopf-Sill called the Planning Commission special teleconference meeting to order at 7:00 p.m. Planning & Building Director Russell called the roll.

Present: Planning Commissioners: Goulden, Hasko, and Targ; Vice-Chair Kopf-Sill
Absent: Chair Taylor
Town Council: Craig Hughes
Town Staff: Laura Russell, Planning & Building Director; Dylan Parker, Assistant Planner; John Wallace, Town Geologist

ORAL COMMUNICATIONS

Roger Pease mentioned that there are rumors regarding an affordable housing project proposal at the Sequoias, and he requested that staff address the rumors. Planning & Building Director Russell briefly stated that the Sequoia property is located within the Town's Affiliated Housing Program. She said that the Sequoias has indicated that in the future, they may be interested in building affordable housing, but there is no active pre-application. Council Member Hughes added that the Town's Affiliated Housing Program is designed to be for staff housing at the Sequoias.

NEW BUSINESS

- (1) **Review of an Application for Modification to the Town's Ground Movement Potential Map; 195 Ramoso Road; File #PLN GMM01-2020; Pursuant To Portola Valley Resolution 2746-2017**

Vice-Chair Kopf-Sill said the process will be that the staff report will be heard first, then Commissioner questions, public comment, and then Commission deliberation.

Assistant Planner Parker briefly viewed the location of the project and existing conditions as detailed in the staff report. He shared that based on on-site exploration and reconnaissance, as detailed in Attachment 3 in the staff report, the applicant's geotechnical engineer concluded that the fault trace on both Town maps is not an accurate location of the fault trace. He said that the proposed map modification would shift the fault trace to the south from what is shown on the Town's Geologic and Ground Movement Potential Maps. This repositioning resulted in the fault trace transecting across the front upper portion of the subject site. He said that the consultant is also proposing a 10-foot minimum habitation setback along the proposed fault location with 5-feet being on both sides of the line. The setback is designed to mitigate any geotechnical hazards that may occur during an earthquake. He shared that with the Town Geologist's recommendation, the Commission can modify the Geological Maps through Resolution 2746-2017. The Town Geologist has concurred with the findings of the consultant. He said that the residents of 191 Ramoso were informed of the fault location on their property in 2014, but staff intends to send a letter informing the owners of tonight's formal action. He concluded that staff recommends that the Commission consider the application, staff's report and public comment, and adopt the resolution to approve the proposed map modification.

Vice-Chair Kopf-Sill invited questions from the Commissioners.

Commissioner Goulden assumed that the relocation of the fault trace is a positive outcome for 191 Ramoso. Assistant Planner Parker said he did not have a frame of reference in terms of real estate.

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Commissioner Hasko did not see the change to be a positive change because the fault trace constrains where development can take place. Assistant Planner Parker confirmed that the fault trace location has a habitation setback and no structures can be constructed within that setback. He said that the homeowners have been aware of the fault since 2014, and the only change is to the Town's map.

Commissioner Hasko said that the owners can further explain their reasoning for doing the investigation and how they discovered the mapping issue.

Thomas Lantzsch, the homeowner of 195 Ramoso, explained that upon purchasing the property in 2019, they discovered that the fault line runs from north to south on the east side of the property. He said that the buildable land on the property is small due to mature trees and the slope to the east. He mentioned that the Town's record suggested that the setbacks from a fault line could be up to 200-feet, and with a 200-foot setback based off the wrong fault line, the entire property would be considered unbuildable. He explained that after discovering that the property may be unbuildable, they decided to investigate to make sure that the fault line is indeed located where the Town's geotechnical maps locate it. He said that along with the investigation, a trench was dug into the area to figure out how the fault behaves and if it will cause any damage to structures during an earthquake.

Commissioner Hasko summarized that having the more accurate locations benefits Mr. Lantzsch with his development project. Mr. Lantzsch concurred.

Vice-Chair Kopf-Sill restated that Mr. Lantzsch investigated the fault line before he bought the property. Mr. Lantzsch confirmed that is correct. He said the investigation was done before the purchase of the property in November of 2019. He mentioned that the trench work to determine the setback was done after the purchase in January of 2020.

Vice-Chair Kopf-Sill asked if the fault is inferred, it has a 200-foot setback, but if a determination is made that the fault lays differently in the ground, the setback can be reduced. John Wallace, the Town Geologist, explained that if a fault line runs through a property, the owners are encouraged to have a geotechnical engineer locate any faults, determine its character, and then based on that information, a setback is determined. He confirmed that he agreed with the results made by the consultant who did the report for 195 Ramoso. He said that the fault in question showed signs of very little sheering, and the fault is not a threat.

With no further questions, Vice-Chair Kopf-Sill invited public comment; seeing none she brought it back to the Commission for deliberation.

Commissioner Goulden found the evidence and approval from the Town Geologist to be very clear. He said he would support a motion for approval.

Commissioner Hasko agreed with Commissioner Goulden's comments. She shared that her only concern is a negative impact to 191 Ramoso. Planning & Building Director Russell said that staff will be reaching out to 191 Ramoso after the meeting and will inform them of the formal decision. Mr. Wallace said that the revised location of the fault points right at the residence of 191 Ramoso. He restated that the fault is considered dead and that is the reason why the fault was not extended through 191 Ramoso. He said that if 191 Ramoso decides to redevelop, they will be required to do a fault trace investigation, and then the Town will make a determination at that time.

Commissioner Hasko said she is comfortable approving the map modification and that 191 Ramoso will be reassessed if an application is submitted to the Town.

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Commissioner Targ said that the findings presented to the Commission are best made with the information that has been provided by the Town's experts and the geotechnical consultant. He wondered if it is appropriate to show the fault trace at all on the map if it was considered to be dead. Mr. Wallace said that Murray Engineers have trenched the fault in other areas in town and have found it to be a lot more "fault like" in those areas. He said the reason to keep it on the Town's map is there are engineering properties that come into play. Mr. Stillman agreed that during the investigation, the fault showed low sheering, and it was concluded that a small setback is warranted.

Commissioner Targ said he understood now why the fault trace is recommended to be left on the Town's map. He concluded that he would support a motion for approval.

Vice-Chair Kopf-Sill agreed with her fellow Commissioner's comments.

Commissioner Goulden moved to adopt the Resolution approving the modification to the Town's Ground Movement Potential Map per the application by 195 Ramoso. Seconded by Commissioner Targ, the motion carried 4-0.

(2) Review of an Application for an Exception to the Town's Utility Undergrounding Requirement; 142 Crescent Avenue; File #PLN EX02-2020

Vice-Chair Kopf-Sill said that the item before the Commission was discussed by the Commission on December 2, 2020. She said the procedure for the item is to hear the staff report first, then Commissioner questions, public comment, and then Commission deliberation.

Assistant Planner Parker said that the subject property is located on the north side of Crescent Avenue with a distribution line located at the street frontage. A secondary wire is located halfway along the shared property line of 139 Crescent Avenue. He said that at the December 2, 2020, Planning Commission hearing, the Commission determined that additional information was required to continue consideration of the request. The Commission requested three areas that needed additional information. The legislative intent to the Town's underground requirements, PG&E's trench design requirements, and feedback from the Fire District. The Commission also noted that only the electric vehicle charging station and the solar photovoltaic system permit should be considered in staff's cost burden analysis. He started with the legislative intent of the code and shared that after reviewing the historical record for the Town's undergrounding requirements, staff concluded that the legislative intent behind the requirements was aesthetics. In terms of PG&E's trench design requirements, he said that the trench path design is usually a direct line, but a more indirect path may be considered but is constrained to only five right-angle bends. The trench path must be separated at least 3-feet from underground wet utilities. If the trench path is perpendicular to the utility, there may be a 1-foot separation. He mentioned that the Town or other entities are responsible for tree impacts or other aspects of the property. After the design is determined, PG&E or the homeowner's contractor will perform the work as designed. In terms of the Fire District's feedback, he said that Senior Fire Inspector Hird expressed general support for granting the exception as well as Fire Marshall Don Bullard. He shared that per the Town's Code, the application is required to underground the overhead electric service serving the property because the electrical panel service is increasing to 200-amps. Also, per the Town's Code, the Commission has the authority to grant an exception to the requirement if they determine that the underground installation is not feasible, and there is no reasonable alternative location or design for the installation of the underground lines. He briefly reviewed the utility plan which was provided at the December 2, 2020 Planning Commission meeting. He said that the proposed trench would adversely impact one significant tree, impact underground utilities, and result in a 148 percent increase to the cost of the original project's evaluation. He said that in the December 2, 2020 meeting, staff only utilized the evaluation of \$16,000 in its cost burden analysis. With the additional trenching cost of \$7,350 and a trenching contractor's quote of \$16,460, the total came to

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\$23,810, which equaled to \$290.37 per linear foot. The proposed trench is approximately 82-feet which resulted in a 148 percent increase to the cost of the original valuation. He concluded that staff determined that the undergrounding requirement is not feasible, and there is no reasonable alternative location or design for the installation of the underground lines due to the underground water main and French drain system being adversely impacted. Also, there will be a significant impact to Significant Trees, and there is an increase of 148 percent cost to the original project. Staff recommended that the Commission find the project exempt from environmental review and move to approve the requested exception to the Town's utility undergrounding requirements as described in Attachment One of the staff report.

Commissioner Hasko requested that staff go over the cost comparison again. Assistant Planner Parker gave an additional explanation.

Vice-Chair Kopf-Sill said that at the December 2, 2020 meeting, there were two projects presented to the Commission. A remodel that was in the \$400,000 range and then the solar panels and electric vehicle upgrades. She believed that many remodel projects required an upgrade to accommodate solar and electric vehicles. She asked if the base remodel required the upgrade for solar panels and electric vehicles. Planning & Building Director Russell said that at the December 2, 2020 meeting, the Commission believed that the two projects should be discussed separately. She said it may be appropriate to consider additional policies for implementation of this requirement and staff will raise this issue under Staff Reports.

Commissioner Goulden said it was his understanding that the two projects should be separate from one another.

Assistant Planner Parker said that it is more cost beneficial to upgrade from a 100-amp service to 200-amp service. He said the electric vehicle charging station and the solar panels are what made the electrician recommend an upgrade to the homeowner's electrical panel.

Vice-Chair Kopf-Sill said she is pleased to hear that PG&E is allowing up to five right-angle bends.

Council Member Hughes was curious to see the Commission request further information regarding the legislative intent behind the ordinance. He encouraged the Commission to not base their decision on the legislative intent because things have changed and the current Council may see it differently.

Vice-Chair Kopf-Sill invited a presentation from the applicant.

Lance Downing, the applicant, said he did not have anything to add.

With no further questions, Vice-Chair Kopf-Sill invited public comment.

Kristi Corley asked if the Town has ever negotiated with PG&E to reduce costs as many people have indicated that they would like to install an upgraded electrical panel. Council Member Hughes announced he is the liaison to the Underground Committee. He said that PG&E is difficult to work with and is very inflexible when it comes to costs.

Vice-Chair Kopf-Sill invited the Commission to discuss the item.

Commissioner Hasko said she found the updated information helpful, and she appreciated the follow-ups. She said that she is now comfortable approving the project.

Commissioner Targ agreed with Commissioner Hasko's comments.

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Commissioner Goulden foresaw the item as a cost concern, and he saw the cost as being out of line for the benefit of the Town. He confirmed that he can support the project.

Vice-Chair Kopf-Sill said she is in favor of folks rerouting around trees, but she is sympathetic to the additional cost that would entail. She appreciated Planning & Building Director Russell's comment that the Town will be reviewing the Undergrounding Utilities Ordinance. She concluded that she would support a motion to grant the exception.

Commissioner Hasko moved to approve the Resolution for 142 Crescent. Seconded by Commissioner Goulden, the motion carried 4-0.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(3) Commission Reports

None.

(4) Staff Reports

Planning & Building Director Russell said that the Town's Code does have a provision that the Commission can establish policies regarding undergrounding utilities and administration of that ordinance. She believed it would be a good idea to establish some policies on how the Commission would like those types of applications reviewed as well as what information the Commission would find helpful to review the applications. She provided two approaches for the Commission to take. One is to hold a meeting with the Mayor and the Chairs of both the Planning Commission and the ASCC to discuss if it's worth considering drafting new policies for underground utilities. The other is to have an item on the agenda to allow the Commission to provide staff feedback.

Vice-Chair Kopf-Sill asked if both approaches should happen, and Planning & Building Director Russell encouraged the Commission to do both.

Commissioner Goulden said that sounds like a good plan.

Vice-Chair Kopf-Sill supported doing both recommendations.

Commissioner Targ agreed with Commissioner Goulden and Vice-Chair Kopf-Sill.

Vice-Chair Kopf-Sill invited public comment.

Kristi Corley clarified that the \$2,000 figure is the cost to upgrade an electrical panel from 100-amps to 200-amps. She stated that in her previous comment, she was not referring to all new builds. She clarified she was talking about going from the pole to the house. She wanted to know if that cost has been negotiated. Council Member Hughes said that it does not matter what kind of work folks are asking PG&E to do. PG&E will charge you what they charge and they do not negotiate.

Ms. Corley predicted that some people will pay that amount and Planning & Building Director Russell confirmed that people pay for the work that is required to go forward with the project that they are proposing.

APPROVAL OF MINUTES

(5) Planning Commission Meeting of March 17, 2021

DRAFT MINUTES

Commissioner Hasko recommended that on Page 165, the last paragraph in the second sentence should say “she questioned whether there is no reference” and remove the word predicted. On Page 168 in the very last line, the word despite should be desperate. She said that on Page 169, the last paragraph, she recalled saying she affirmatively wanted to keep any code changes narrow because she did not see other places in town where the broader language is needed. She said that the rest of the paragraph can stay as is.

Vice-Chair Kopf-Sill said that on Page 171, about two-thirds down the page, she was describing the report that Planning & Building Director Russell showed on how many permits have been issued. She said that some of the projects were not going to get built, and she wanted the minutes to be clarified that the report was for projects approved, but that it did not mean that there is any kind of tracking of projects that get built.

Assistant Planner Parker mentioned that the year in the minutes reads 1978, and it should be 1987. Commissioner Hasko mentioned that the typo is on Page 165, about halfway down.

Vice-Chair Kopf-Sill invited public comment.

Kristi Corley said that in her quote on Page 168, she was saying that fire stations should be separate from adding public buildings to R-1 codes.

Vice-Chair Kopf-Sill asked for further clarification on Ms. Corley’s requested amendment. Ms. Corley clarified that if approved, she would like to see the proposal be two separate discussions. One being adding the public buildings to R-1 and the other discussion be on the acceptance of the fire station amendments.

Commissioner Goulden agreed with Vice-Chair Kopf-Sill that the original sentence in the minutes captured that. He paraphrased that the minutes reflected that Ms. Corley is comfortable having the language be limited to just say fire station and that she is opposed to having it say public building. Ms. Corley confirmed that is correct.

Commissioner Goulden moved to approve the minutes of the March 17, 2021 meeting with the proposed changes. Seconded by Commissioner Hasko, the motion carried 4-0.

ADJOURNMENT [8:25 p.m.]

Commissioner Goulden moved to adjourn. Seconded by Commissioner Hasko, the motion carried 4-0.