

TOWN COUNCIL WEEKLY DIGEST

Thursday – March 24, 2022

1. Agenda (Cancellation) – Architectural & Site Control Commission – March 28, 2022
2. Email from B. Allen re Housing Affidavits – March 21, 2022
3. Email from K. O’Hanlan re Ordinance and Deck Material – March 21, 2022
4. Email from E. Vernazza re Housing in Nathhorst Neighborhood – March 22, 2022
5. Letter from Portola Valley Ranch Association re Opposition to Home Hardening Urgency Ordinance - March 22, 2022
6. Email from R. Allen and Response from Mayor Hughes re Opposition to Rezone Family Home and Neighborhood – March 22, 2022
7. Email from E. Jelich re Jelich Stores Rezoning Objection – March 23, 2022
8. Email from M. Cristina re Housing Comments – March 23, 2022
9. Email from B. Russell re Portola Valley Housing Crisis – March 23, 2022
10. Email from D. Anderson re Roberts Market Rezoning Objection – March 23, 2022

Attached Separates (Council Only)

(placed in your Town Hall mailbox)

1. None



TOWN OF PORTOLA VALLEY

**4:00 PM – Special Meeting of the Architectural and Site Control
Commission (ASCC)
Monday, March 28, 2022
Historic Schoolhouse
765 Portola Road, Portola Valley, CA 94028**

NOTICE OF MEETING CANCELLATION

**ARCHITECTURAL AND SITE CONTROL COMMISSION
MEETING REGULARLY SCHEDULED FOR
Monday, March 28, 2022**

Notice is hereby given that the Portola Valley Architectural and Site Control Commission meeting regularly scheduled for March 28, 2022 has been cancelled.

The next meeting of the Portola Valley Architectural and Site Control Commission is scheduled for Monday, April 11, 2022 at 4:00 PM.

Sharon Hanlon

From: robert allen
Sent: Monday, March 21, 2022 9:18 AM
To: Housing; Town Center
Cc: Craig Hughes; John Richards; Jeff Aalfs; Sarah Wernikoff; Maryann Moise Derwin; Bob Turcott; jswisher; jamie koblick; Kevin Ford; Celeste Ford; Janice Tomer; Jeff Booth; Karen Allen; Tammy Cole; ellen vernazza; Laura Russell; Jeremy Dennis; Cara Silver; Chuck R. Reed; Bob Adams; robert allen; Caryl Russell
Subject: Additional Housing Affidavits
Attachments: kane aff.docx; Halpern aff.docx; wong af.pdf; Momtazee Affidavit.pdf

Good morning,

Please see these additional affidavits from Applewood and Nathorst area...more will be coming

Thank you

Bob Allen


Affidavit

Dale Kane & Elinor Mertz

We, Dale Kane and Elinor Mertz Trustees of the Kane – Mertz Living Trust, declare under penalty of perjury as follows:

- We have lived in our home at 3 Hillbrook Drive Portola Valley 94028 for over 10 years and plan to live here for the rest of our lives. We are a young couple in our 40's, so we plan on being here for another 40-50 years.
- Our estate plan is set up so that our 9 year old son Rusch has first right of refusal to inherit the house; next our 7 year old daughter Serafina has the option to inherit the house; finally our 5 year old son August has the option to inherit the house. It is our intention to have one of our children and their eventual family live at 3 Hillbrook.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on this 16th day of March 2022 at 3 Hillbrook Drive Portola Valley, California 94028.

X 
Dale Kane

X 
Elinor Mertz

Affidavit

We, undersigned Georges & Emiko Halpern, certify and declare the following true and correct.

We are the owners of our home at 9 Hillbrook Drive, Portola Valley, where we have lived for 41 years and intend to continue to do so.

Our heirs and children were raised here and consider it their family home; so do our grandchildren. The older one is a physician-in-training in the area, and he wishes to raise his future family here.

signed on March 15 2022

Georges M. Halpern

Emiko Halpern



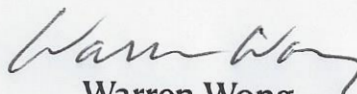
Warren Wong
4330 Alpine Road
Portola valley Ca 94028

Affidavit

I, Warren Wong, hereby declare under perjury as follows:

I have lived in my home at 4330 Alpine Road, Portola Valley for 36 years and plan to be here indefinitely. I do not have any plans to sell my house.

I declare that the foregoing is true and correct, and that this declaration was executed on this 15th day of March 2022 at 4330 Alpine Road, Portola Valley, California.


Warren Wong

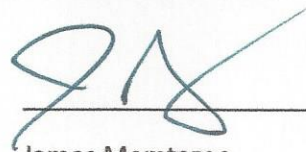
Affidavit

James Momtazee

I, James Momtazee, declares under penalty of perjury as follows:

1. We have continuously lived in our home at 280 Nathhorst Avenue, Portola Valley for six years.
2. Our youngest child is 3 years old, and our family has every intention of living in this home at least until our children are in college which would mean a minimum of 15 years.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 19th day of March 2022 at 280 Nathhorst Avenue, Portola Valley, CA.



James Momtazee

Sharon Hanlon

Subject: Comment to the Town Council**From:** Kate O'Hanlan, MD**Sent:** Wednesday, March 21, 2022 8:24 AM**To:** Sharon Hanlon <shanlon@portolavalley.net>**Subject:** Re: Comment to the Town Council

There is no reason to have an ordinance that has no evidential basis, and that was implemented immediately, with no opportunity for PV citizens to ask that the Council recognize our California experts who have already reviewed the research and issued evidence-based policies. Requiring non-combustible materials for deck replacement in Portola Valley homes, when the evidence for non-flammable AZEK material was reviewed and approved by the California Fire Marshall and Firwize USA renders this new ordinance costly, overreaching and ultimately dissuasive of fire safety.

There was no indication for the PV town council to have written the ordinance with urgent or immediate implementation without having given even any warning to PV citizens who were already deeply into their architectural planning. Portola Valley Ranch, a Firewize community for over ten years, has 200 homes with at least three and often five wooden decks that need to be replaced in the near future given that PVR homes are 30-50 years old. PV Ranch approved our deck remodel plans, consistent with Firewise USA. Since November of 2020, we have been generating architectural and engineering plans for our deck remodel, which we just submitted to PV Council. We have already spent over \$100,000 for these plans.

To have the ordinance, as currently written, implemented immediately, two years into our plans, and one month before our submission will require costly changes, and confer no benefit. I hope that the mediation event, once facts are in evidence, will convince the PV Council that the ordinance, as written, is harmful, costly and ineffective, adding no consequential benefit to existing evidence-based standards as instituted by our state recognized experts.

PV Council should have implemented just those policies researched and approved by the State Fire Marshall and the Firewise USA experts. Please advise me how this ordinance can be revised. We all want to prevent fires and preserve our homes.

Sharon Hanlon

From: Ellen Vernazza
Sent: Tuesday, March 22, 2022 4:54 PM
To: Town Center
Subject: Please forward this email to all council members and adhoc housing element committee members

To the Town Council and ad hoc Housing Element Committee

You have proposed to eliminate more than 11 long time families in the Nathhorst neighborhood and *replace* them with hundreds of other people from out of town to take our places. We have been told by town staff and elected officials that after rezoning these homes, some home owners will die and high density housing can be put where **that** house is and then the neighboring home owners will also either die or wish to **move** because they will be surrounded by a large 3 story, high density housing project. Which then allow more high density to be built etc- You wish to remove 44 people in just this one area to let hundreds of other people move in. Please do the math.

The consequences of your actions to these 11 families *plus* their neighbors would be many.

First of all the property values would drop dramatically for both the 11 family homes and the surrounding homes.

Second of all, if one should sell, the capital gains tax that would need to be paid would wipe out any financial **possibility** of buying another home on the peninsula. We would not only be losing our long time family homes and friends but would have to move out of the area completely. **And this is all so other people can move here instead??**

If you have no feelings for your 11 + neighbors whose lives and stability you would be changing forever, then please consider the lives of the thousand people living on the western side of Portola Rd.. Your proposal of adding hundreds of people and cars directly on the busiest intersection of town would make a wildfire evacuation of those thousand residents extremely more dangerous and life threatening than it already is. In addition to the evacuation debacle The **fuel** density alone of the proposed high density structures and cars would more powerfully feed a wildfire than that of any natural trees and foliage.

I guess you have personally come to the conclusion that these 11 families and their neighbors are all disposable. I don't see any of your homes or neighbors homes on the chopping block .

Just to let you all know, all the 11 families living in the proposed rezoning area have already signed affidavits that they will not be moving in the next 10+ years and not many of us are getting ready to die yet.

Why are our families lives considered dispensable when there are many other options available such as rezoning on town owned land and actually promoting ADUs?

Let's revisit spreading the housing onto town owned properties. Who ever visited it in the past did not stay long enough.

Ellen Vernazza



March 22, 2022

Dear Members of the Portola Valley Town Council and Town Staff,

In response to the Urgency Ordinance on Home Hardening passed by Council on December 8, 2021, the Portola Ranch Association and its Fire Risk Management Committee respectfully request the following:

That Council act promptly to reverse or waive the provision of the Urgency Ordinance requiring only noncombustible materials be used to repair or replace decks of existing structures.

Reasoning:

- The benefit/cost equation is upside down. The purported benefit of this prohibition, intended to reduce the likelihood of decks igniting and spreading fire to attached structures, is far outweighed by the likelihood that residents will postpone repair or replacement of existing decks to avoid the cost and complications of using only noncombustible materials. And it's not just materials, the additional engineering and costs to properly support these structures will be a disincentive to making improvements. This does not contribute to safety.
- Good alternatives exist, and are approved for other applications (roofs). Many decks are well above ground and unlikely to be ignited by a ground fire. Firebrands or flying embers may ignite a combustible deck, but less costly methods and materials (for example, Azek) are available with robust fire ratings that would greatly reduce ignition potential for decks of any height. Homeowners should be encouraged, not prevented, to perform deck replacements and upgrades with such materials.
- Increased seismic risk. Placing large amounts of heavy and inflexible materials such as tile, stone, or concrete in deck structures increases the risk of collapse and damage both to the structures on which they are attached and to neighboring structures on which they may fall. Homeowners will be rightfully reluctant to enable such a dangerous outcome.

In summary, the Urgency Ordinance provisions as they relate to decks and deck materials, including the cladding requirement for the underside of low decks, are a textbook example of unintended consequences and perfect-as-the-enemy-of-good. Good fuel reduction practices and the use of highly rated materials will do much more to improve our safety.

Respectfully submitted,

Jon Keller, President Portola Ranch Association

Mac Irvin, Chair Fire Risk Management Committee

Robert Allen
Nathhorst Ave
Portola Valley, CA
94028

March 22, 2022

Mayor Hughes,

I did not make any threat at our Sunday yard meeting to “do everything to bankrupt the town “ It is unfortunate that you expanded on this line of personal attack on the PV forum. Wow.

I have contacted all in attendance. **100 % agree that I made NO threats of any kind.**

I want the Town to follow the law. I do not want the Town to rezone my family home or those of my neighbors for high density housing. If the Town chooses that course, it will be rejected by the State for reasons specified in State law. If the Council does not to follow the law, it will be responsible for any negative impacts on the Town.

I hired an attorney to enforce my rights under the law. The Town has an attorney at every meeting. I am going to retain a lobbyist. The town already retains lobbyist.

I never received ANY written notice regarding rezoning of my home. Since no one will explain how my home was put on a map, I requested copies of public records surrounding that decision.

It is not dark to ask why your home is being threatened, it is effort to shed light on why.

Ask anyone who has tried to get approvals from Town about their experience. I doubt they will sympathize with the time to comply with a documents request!

We need a solution which spreads out the obligation across Town. I said that we need positive energy to solve this - not an attack on a small group of homeowners or individuals.

I ask that you retract your statements, in writing, that I “threatened to do everything to bankrupt the town”. I will ask all those in attendance to meet with you in a public forum if that is what you choose.

Let's take the temperature down and solve this.

Thank you



Robert Allen


See the following page which for a statement from some of those in attendance.

Cc: Town Council, Ad Hoc Committee, Almanac

PAGE TWO

The undersigned were present at the meeting with the Mayor. They hereby state that Robert Allen did not any threat to bankrupt the town.

In attendance:



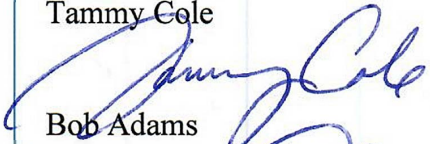
Bill Russell





Carlyn Russell

Tammy Cole



Bob Adams



I am asking the other people in our small group from Sunday to comment as well on the alleged assertion.

Sharon Hanlon

From: Craig Hughes
Sent: Tuesday, March 22, 2022 8:28 PM
To: Maryann Moise Derwin; Housing; Town Center; John Richards; Jeff Aalfs; Sarah Wernikoff; Laura Russell; Jeremy Dennis; Cara Silver; @embarcaderomediagroup.com; robert allen
Cc: Chuck R. Reed; Bob Adams; Bill Russell; Caryl Russell; Karen Allen; Tammy Cole; Bob Turcott; Karen Askey; Celeste Ford; Kevin Ford; jamie koblick; Jeff Booth
Subject: Re: Open Letter to Mayor Hughes

Robert,

If you read “do everything he can” as stand-alone, that was not my intention. Your specific threats were limited to a public records requests, lawsuits, and lobbyists, and that is what I meant if you read the full sentence that I wrote.

I did not intend to be having this discussion on the forum; I was responding to specific assertions by Bob Adams.

I did not initiate the article that the Almanac published, though when I heard that Angela was writing an article on the town’s housing element process I did contact her to let her know about what I had heard at our meeting.

Your threats (though delivered politely and with a smile) were just one part of that conversation about what I felt was overall a positive meeting where we all shared a range of thoughts and view and concerns. I can understand why many present might not have taken totem as threats, but again, you said that you intended, if you did not like the outcome of the process, and if you felt your propriety value was at risk that:

1. The entire town would feel pain if you felt pain
2. You would sue the town, hire a lobbyist to oppose the town, and submit the town to onerous procedural requests
3. You were willing and ready to spend hundreds of thousands of dollars to do this
4. You believed this would lead to the bankruptcy of the town

If I misunderstood any of the above statements, please let me know.

I stated several times that the town fully intended to comply with the law in every respect. You made the above statements, some of them several times, anyway. They did not to me seem conditional on the town doing anything illegal.

I’m not even disputing that you may have the right to do the above things; that part is up to you.

C
On Mar 22, 2022, 7:42 PM -0700, robert allen <robertrallen@hotmail.com>, wrote:

file:///private/var/mobile/Containers/Data/Application/A9781B77-A47F-4B20-A6AD-B64D7CF7822F/tmp/EWS/52016639-47CB-4545-9006-978C9C4A455B-000000.html

Sharon Hanlon

From: Yahoo Mail <>
Sent: Wednesday, March 23, 2022 4:36 PM
To: Sharon Hanlon
Cc: Sandi Anderson; Kent Mitchell; P.E. Don N. Anderson; @; @; joycepilk; Dan Adams
Subject: 104-116 Portola Road (Jelich Stores LLC) Rezoning Letter of Opposition
Attachments: Jelich Stores LLC Rezoning Objection.docx

Town Council and Ad Hoc Housing Element Committee:

Please find attached our objection to the proposed rezoning of our property 104-116 Portola Road (Jelich Stores LLC) to the proposed Residential Low Cost Housing.

Ed Jelich
Stores Manager

March 7, 2022

Ad Hoc Housing Element Committee
Town of Portola Valley
765 Portola Valley, CA 94028

Re: AD HOC Housing Element – Re-zoning
Jelich Stores

Dear Ad Hoc Housing Element Committee,

We the owners of the Jelich Stores, (Jelich Stores LLC) are writing this letter to voice our opposition to having our property 104-116 Portola Road, Portola Valley, CA. (San Mateo Parcel # 079-072-100) rezoned from Commercial to the new Residential Low-Cost Housing. This property was commercially developed in the late 1950's by our parents as a four store complex containing a Grocery Store, Hardware Store, Drug Store, and Liquor Store. Over the 60+ plus years our Business Location has evolved to what it is today, a Realtor Office, a Hardware Store, a Physical Exercise/Sports Medicine Facility, and a Hair Salon.

As you can see, our property has been fully developed for over 60+ years. All businesses have minimum 5-year leases with options to extend for an additional 5 years of business. The lone exception is the Hardware Store which has a 10 year lease (4 of which are used) with an option for 5 additional years. It is our intent to execute these leases to their fullest extent including the additional option years. As each lease comes due, we intend to grant more 5 year leases plus the option for an additional 5 years to our tenants. It is also our intent and those of our heirs, to continue this operation for the foreseeable future as we have neither the intention of selling the business nor changing of our buildings to a non-commercial or other use. In regards to excess property on our land, with the relocation of Portola Road and Alpine Road to its current junction in the mid 90's, the Jelich Brothers donated the excess land on our property to form the current Town of Portola Valley's Triangle Park now located adjacent to our existing facility.

Our main objection to this rezoning is that our Property does not meet the State's Department of Housing and Community Development (HCD) requirement that there will be a change of use during the next 8 years Planning Period. As we understand it, the Town cannot rely on rezoning of our property to satisfy its state requirement, unless it provides the HCD with "***substantial evidence that the current uses of our property are likely to be discontinued during the planning period***", i.e. during the next 8 years. We also understand the Town is required to explain in its application to the HCD how it has made a determination, considering "***all factors including the extent to which existing uses may constitute an impediment to additional resident development...existing leases and other contracts that would perpetuate the existing use or prevent redevelopment of the site***" during the next 8 years. As noted above, all of our leases exceed the 8 year Planning period requirements of the HCD and we will extend

them again as they come up for renewal. We've also explained that we have no intent in the foreseeable future but to continue our operation as it is today

Per this letter, we are demanding that this letter of OBJECTION to a rezoning our property be filed with the Town of Portola Valley's submission to the HCD for their Rezoning Plan for Low Cost Housing. This letter clearly shows what our future intentions are for this property and it clearly exceeds the 8 year Planning Period required by the State HCD filing requirements.

Sincerely,

JELICH STORES, LLC

Ed Jelich

Managing Partner

Cc: George Jelich
Don & Sandi Jelich Anderson
Joyce Jelich
Jeannie Ladley
Zelda Jelich Trust
Dan Adams (Turner, Huguet, & Adams)

Sharon Hanlon

From: Maria Cristina

Sent: Wednesday, March 23, 2022 3:43 PM

To: Sharon Hanlon <shanlon@portolavalley.net>

Subject: Housing comments - Tow Council Input

*Suggest before any other possible housing locations be identified at a public meeting, a committee member should pick up the phone for a short conversation to see what comments the property owners have to contribute. Or drop a note in their mailbox, and ask them to call you. With emotions currently riding so high, I think this could help.

*Residents should be able to apply to have their property be taken under consideration.

*Is it possible to allow special permits on a case by case basis instead of permanent rezoning? There could be several situations identified, and basic permit requirements standardized for easier and faster approval. I'd think this would be particularly helpful for residents considering a remodel to an existing part of their home or garage.

*A community center with apartments or communal type buildings could be created and rented to people that have a long commutes. They would not have to move, but would have a place to stay during the work week. These could be partially subsidized with Town funds and created in such a way that they comply with state requirements for low income units. Not everyone necessarily wants to move to Portola Valley and leave their existing communities.

* If the owners were interested, the lots identified at the entry to town on Alpine Rd. could be an ideal location & perhaps combined with housing at Ford Field. There would be quick easy access out of town for commuters, or should we have an emergency. The buildings would not be too much of contrast with the rural nature of PV due to their proximity to Ladera stores and businesses.

*Given the current public interest, I'd think a ground up philosophy might work better than imposing top-down requirements.

*I believe that the Town may need to offer financial incentives, or interest free loans to residents as not everyone who would like to help, can afford the extra building expenses. Best to try to keep this local rather than having out of town developers move in.

*There is so much information and so many political requirements, I would think that a one page info. sheet could be sent to residents. This could include basic goals, a short list of what as been identified to achieve these goals, some estimated costs (ie: to build an ADU), etc.

Thanks for all your work on this,
Maria

Sharon Hanlon

From: Bill Russell

Sent: Wednesday, March 23, 2022 1:52 PM

To: Sharon Hanlon <shanlon@portolavalley.net>; Bob Adams <>; Tammy Cole <>; Greg Franklin <>; Celeste Ford <>; Jeff Booth <>; jamie koblick <>; Housing <housing@portolavalley.net>

Subject: Portola Valley Housing Crisis

Introduction:

"They paved paradise and put up a parking lot
 They took all the trees, and put em in a tree museum
 And then they charged the people a dollar and a half to see them
 No, no, no
 Don't it always seem to go
 That you don't know what you got 'till it's gone
 They paved paradise and put up a parking lot."

Joni Mitchell

"It's a beautiful day in this neighborhood
 A beautiful day for a neighbor
 Would you be mine?
 Could you be mine?"

Fred Rodgers (deceased)

The Crisis

Portola Valley faces a crisis not of its own making. The State of California has mandated that this town submit a proposal for 253 dwellings to meet the state's need for additional reduced cost housing. And, to compound this already difficult task, the state has demanded that a preliminary report be produced within the next 5 1/2 months (although I was recently advised the town, along with other towns and cities within our county, are seeking an extension of time to produce the required plans.) The town is working diligently to complete this task. I submit that we must not let arbitrary deadlines dictate our conduct and that we continue the work at hand and when the project is complete and acceptable to the informed town residents, then, and only then, we submit the proposed plan to the state.

DO NOT FEAR THE BIG BAD WOLF

Let's remember: state law specifically states that the plan does not have to be implemented at the time of the plan submission. Second, state law provides that this is just a proposal, nothing more and nothing less. Third, state law provides for extensions of time. Fourth, this is not a situation where we appealed the initial unit designation from the state, were turned down, and are now begging for more concessions. To the contrary, the town has willingly accepted the designation and is doing everything within its power to comply. Fifth, once the plan is presented and it is apparent that it is in keeping with the state mandate and that good progress is being

made to implement it, is there anything that the state can or would want to do except work with us in a continued cooperative fashion?

A footnote: much of what I say here requires an opinion of counsel. Fortunately, we have a town attorney who can actively assist in the process. Throughout this discussion, when I see a legal issue that needs comment I will designate it with: "**ask our lawyer.**"

What do the Town Residents Want?

From the recent town survey conducted by the Ad Hoc Housing Committee and the comments of the more than 100 residents attending the 2/28/2022 committee meeting, the expressed wishes of the town's residents are:

1. Protect and preserve the scenic corridors along Alpine and Portola Road.
2. Protect and preserve the existing commercial establishments in this town.
3. Encourage the continued construction of ADUs by streamlining the process
4. Do not build high density housing in the town such as apartment buildings and the like.
5. Do not rezone occupied single family residences against the wishes of their owners.

The Possible Solutions:

1. Increase the number of ADUs.
2. Make vacant land owned by the town available for development.
3. Acquire privately owned vacant land through donations or purchases that can be made available for development.
3. Expand the use of existing commercial properties within the town to include housing, through mixed use zoning.
4. "Upzone" some or all of the single family homes in town against the wishes of the owners in order to permit construction of as many as 20 housing units per one acre lot (a draconian measure favored by virtually no one.

The Measuring Stick For All of the Proposals

All of the proposals must be measured with the following considerations in mind:

1. Is the conduct contemplated by the proposal voluntary or coerced?
2. Is the proposal likely to increase the density of housing in a way that reduces the beneficial enjoyment of the homes already owned by the town's residents?
3. Is the proposal likely to cause the monetary value of existing single family residences to be reduced?
4. Is the proposal likely to increase the already existing fire hazards within the town and associated need to exit in a timely and safe uncongested fashion?

5. To the extent that increased housing is perceived as a burden rather than an opportunity does the proposal spread the burden equally throughout the town's residents or does it target a small segment of the population to shoulder what, equitably, should be the responsibility of all 1700 homeowners?

Accessory Dwelling Units

Additional ADUs are, I believe, the very best opportunity to satisfy the state's mandate. ADUs meet all of the above criteria. They are voluntarily undertaken, the density increase is minimal and spread throughout the town, the ADUs will likely increase the value of the homes that contain them and will not negatively affect either the value or enjoyment of neighboring homes. Here's how we get there:

1. Adopt pre-approved plans for the development of ADUs. This is what the Town of Piedmont did. This will eliminate the current beauracatic nightmare (as Bill Kelly calls it, the "Routine Torture") of getting a plan approved by this town. Many residents have complained of an extraordinarily costly (above \$100,000) and time consuming (exceeding one year) process just to get approval of a plan before breaking ground. At the last Ad Hoc Housing Committee Meeting Laura Russell said that she did not know what else to do because the process had already been streamlined, and we still want to look at all geologic and fire hazards and don't want to lose "control" (not sure what she meant by this) over the process. I submit that there are still creative ways to further streamline this process without compromising safety. As for fire dangers, how can we contemplate putting 20 housing units on a single acre and then find it so troubling that someone might put a single 800 square foot fire retardant ADU on that same acre? Time to think out of the box.

2. Incentivize all of us to develop ADUs. This state's health and safety code requires that cities and counties develop a plan as part of their Housing Element that incentivizes and promotes the creation of ADUs that are offered as affordable rent for very-low, low, and moderate income households. I previously suggested that an emergency letter be sent to every member of the town advising them of the following:

A. the state's plan for forced increased housing.

B. the opportunity to turn this into a benefit by encouraging all homeowners to develop an ADU through a streamlined process with three possible pre-approved plans eliminating the expensive and time consuming process for plan approval and that increased ADUs will benefit all of those who work and serve us but cannot afford to live here----i.e. teachers, firefighters, police, store clerks,

C. offer a cash reimbursement of \$25,000 for each homeowner who constructs such an ADU which will help defray the cost of architectural plans and construction.

As to "C" above, the town has almost \$4.0 million in cash that can be used for this purpose. If 100 residents construct an ADU, that would cost \$2.5 million and, likely, solve the housing crisis. Further to this point, the Cal HFA ADU Grant Program provides grants to reimburse homeowners for pre-development costs associated with the construction of an ADU. Under this program, the California Housing Finance Agency (Cal HFA) will review the submission package and contribute up to \$25,000 directly to construction escrow. The funds can be used to reimburse borrowers for eligible costs, including but not limited to architectural designs, permits, soil test, impact fees, property survey and energy reports. Finally, the Local Housing Trust Fund Program can provide matching funds to local housing trust funds (think the almost \$4.0 million) this town possesses. Eligible uses include the construction of ADUs or JADUs. Previously, with respect to the LHTF Program, I suggested that the housing committee reach out.

3. Contact any number of local builders and ask them if there is a cost benefit to constructing 20, 30, or more ADUs of the same plan type at the same time? Think economy of scale.

I never received a formal or informal response from the housing committee to these prior proposals by me; which brings up another point. By letter, weekly staff report or any other form of written communication, the housing committee must:

1. Respond meaningfully in writing to each suggestion of the town residents to solving the housing crisis.
2. Advise of the status of all investigations being conducted by the housing committee to explore housing alternatives and the result(s) of those ongoing investigations.

THIS IS THE ONLY WAY TO HAVE AN INFORMED ELECTORATE AND ENSURE ALL OF US THAT THE COMMITTEE AND THE PLANNING DEPARTMENT ARE DOING EVERYTHING WITHIN THEIR POWER TO SOLVING THIS PROBLEM.

Ask our lawyer: what does the state require in order to qualify a proposed ADU as part of the 253 requirement: a formal application for permission to construct an ADU or a letter of intent or something else? (I believe that no deed restriction is required, true?)

VACANT LAND OWNED BY THE TOWN

There are multiple sites of vacant land owned by the town--Rosatti field, Ford Field, Town Center, Blue Oaks acreage, part of Spring Down, just to name a few. Considering the constraints outlined above, this may be an equally good solution to the crisis as expanding the ADUs. Almost all of these sites are geographically removed from the central housing locales within Portola Valley so that their development will not interfere with the existing homeowners' peaceful enjoyment of their homes nor is there any likelihood that the development of one or more of these parcels will have an affect on the monetary value of existing homes. Many of these sites are geographically located near Alpine and Portola Road, making for easy transportation ingress and egress, so necessary when there is an evacuation emergency.

In the Staff Report from the town dated September 27, 2017 there is a listing of 34 vacant properties owned by the Town. That report says that "the four that may be worth a further examination are: Town Center, Town-owned property adjacent to Ford Field, Blue Oaks subdivision remnant property on Los Trancos Road, Road Right-of-Way along the Alpine Road adjacent to Corte Madera School."

There are more than these four candidates. For many suitable parcels referenced in the September 27, 2017 report, they were rejected because of designation of the lands as "Open Space." What is not at all clear are the following:

1. Was the designation of any of the parcels as "Open Space" a designation that the town made that the town, itself, could reverse and use for affordable housing in the current crisis? (**ask our lawyer**)
2. To the extent that the land grantors deeded the land with an open space declaration and assuming that it is otherwise binding (**ask our lawyer**) wouldn't it make sense to ask the grantors to remove or revise the open space designation in light of the current housing crisis? Although I never received a response to this earlier suggestion from me, a different town resident raised it at the March 21, 2022 housing committee meeting. Laura Russell said, "I'm not aware of anyone making any phone calls to any of the grantors, but they probably wouldn't agree anyway since they gave the land as open space." My humble suggestion: PICK UP THE PHONE.
3. Contact any of the numerous local developers to determine the feasibility of constructing affordable housing units on the vacant lands with specifics as to the type of structure, number of units possible and likely

development costs. Just like the "no calls" to those who deeded land to the town in number 2 above, I don't know that the town planners have contacted anyone.

4. Work with possible developers to develop a firm plan for sale of the land and development through the process outlined in Government Code Section 54220 (Surplus Land Act). Under this act an agency has been created to facilitate the sale and development of designated surplus land.

5. Contact the Local Housing Trust Fund to determine if matching dollar for dollar funds would be available for the town's acquisition of additional lands or as builder incentives.

Once again, I have no idea if any of the above suggestions are being implemented.

IS THERE A BIAS AGAINST USING TOWN OWNED VACANT LANDS?

After 40 years of practicing law I've developed some modest skills at reading between the lines. I am developing a sense that, despite everything said above, there is a bias in the ad hoc housing committee against using vacant lands for increased housing. I'm the first to admit that I could be terribly wrong but the inaction and negativity that I observe makes me wonder.

MIXED USE COMMERCIAL

I am not aware of any attempt by the planning commission or the ad hoc housing committee to reach out to the owners of commercial space to discuss adding housing (think Santana Row) to the existing space or the committee considering re-zoning the space for mixed use. A status and feasibility report would be helpful. Since, for the most part, the commercial centers of town are removed from concentrated housing centers, a further development would not cause harm, economic or land use enjoyment, to existing homeowners.

Upzoning Privately Owned Vacant Land

This is a possibility. There are multiple sites of privately owned lands that would be suitable for development. I am told that the town is reaching out to some of these property owners. This is not the best option but certainly better than upzoning existing single family homes (discussed below). Upzoning privately owned vacant land might result in increased density and might, conceivably interfere with the neighbors enjoyment of their properties but the upzoning of the vacant lands might actually increase the value of the lands.

Upzoning Single Family Residences

This is the worst option of all for a number of reasons:

1. It is forced, not voluntary.
2. It will destroy the character of any neighborhood to which the designation is attached. 20 unit apartment buildings do not mix with single family residences.
3. It will substantially reduce the value of those single family residences that are upzoned and cannot be expanded, have an ADU added or rebuild on the destruction by fire or earthquake of the home itself. Further, no one seeking a single family home is going to buy one that has been upzoned with all of the attendant limitations. As for sale to developers, there is absolutely no evidence that upzoning single family residences valued at \$4-\$7 million will increase the value of the residences (even assuming you could ever find a developer willing to invest that sum only to tear it down and construct low cost housing). One knowledgeable town resident has

estimated that the reduction in value to the Nathhorst Triangle proposed rezoning is between \$30 and \$40 million.

4. It will substantially reduce the value of the homes of the neighbors of single family residences that are upzoned. Those seeking to move into Portola Valley will not be interested in purchasing a home that is across the street from a 20 unit apartment building or if they were, the price to be paid will be substantially less than if that apartment building were not there.

4. It will substantially reduce the beneficial enjoyment of single family residences of those who are neighbors to upzoned parcels. Consider the noise, dust, traffic congestion, etc. that exists when your neighbor across the street constructs a 20 unit apartment building over 2-3 years.

5. It deprives the targeted homes and their neighbors from securing the fair market value of their homes if they choose to sell. Many of the homeowners in this town are senior citizens who have occupied their homes for decades. If they felt compelled to sell because their home had been targeted or they were an affected neighbor, the capital gains taxes would be in the millions. In any attempted sale to developers, this would be an added cost that the homeowners would extract before selling (another reason why no sale to developers would ever occur, thus defeating the goal of providing affordable housing).

6. Upzoning a single neighborhood flies in the face of the specific admonition from the state that increased housing should be spread throughout the town and not concentrated in one neighborhood (**ask our lawyer**).

The Nathhorst Triangle/Applewood Debacle

It started horribly, and then got worse. The Ad Hoc Committee, at its 2/22 meeting stated that, at the next meeting it was going to vote on upzoning a number of specified homes in the Nathhorst Triangle. This is what is known:

1. Absolutely no notice was given by the committee to those homeowners prior to the 2/28 meeting. At the 2/28 meeting the chair of the committee apologized and said that the agenda for the meeting should have said that there was only going to be a "discussion" and not a vote.

2. Absolutely no written analysis of any kind was done of the proposed sites to determine their viability for upzoning to a 20 unit apartment building or related complex. Contrast the town's required analysis before it will approve an 800 square foot ADU. No explanation was given as to why some homes were included for upzoning and others were not. There was no rational basis for any of the committee's conduct.

3. Then the mayor got involved. After the "meet the mayor" meeting he had issued newspaper-reported negative statements of one homeowner whose property had been targeted for upzoning. What followed was a written response from that homeowner along with one or more responsive emails from other homeowners who were in attendance at the meet the mayor meeting. The mayor's recitation of the events of that meeting were rebutted in the responsive emails. The mayor then responded further with an additional email, in essence doubling down on his earlier reported comments. This town council will be acting in a quasi-judicial fashion when it votes on the ultimate housing element plan to be submitted to the state. Town council members must remain neutral and unbiased in quasi-judicial matters. When they fail to do so they must recuse themselves from further consideration of the matter or from voting on the matter. (**ask our lawyer**). It is essential for the integrity of the vote by the council that any biased council member be recused because if not, any action taken by the council will be nullified (even if the vote of the biased council member did not change the outcome) (**ask our lawyer**). It is clear from the newspaper article and the subsequent communications from the mayor that he has developed an animus towards more than one of the homeowners in the Nathhorst Triangle. For the good of everyone the mayor should voluntarily recuse himself.

To the merits, the proposed upzoning of the Nathhorst Triangle is contrary to law and will not satisfy the state requirements for the housing element (**ask our lawyer**)

1. The state admonishes the cities and towns to spread the responsibility for housing across the town itself and not isolate it in one neighborhood.

2. The state mandates that whenever a town or city wants to include a particular site in its required allotment and that site is not vacant the town has an affirmative duty to explain why there is a reasonable likelihood that the property will actually be available for development during the applicable cycle. Here, all of the affected homeowners have signed affidavits under penalty of perjury stating they will not be moving during the cycle. Those affidavits are admissible in evidence (**ask our lawyer**). There is no contrary evidence to present to the state. Even the mayor himself at the "meet the mayor" meeting acknowledged that the state may not accept any such designation but, in defense he said, "well those affidavits didn't "guarantee" that the residents would not move. The affidavits and their evidentiary value speak for themselves. Including these homes in the 253 required allotment, in the face of the affidavits violates the law (**ask our lawyer**). The law provides a private cause of action against the town when this takes place.

3. Nobody wants to sue the town. And, yes, if suits are filed, the legal costs to the town will likely be in the millions and if the private parties succeed, it is possible that the town will have to pay their fees. All of this may be in addition to actions for inverse condemnation (**ask our lawyer**). Meanwhile, while the litigation progresses over years there will be no building of low cost housing. Who benefits and who suffers?

Maybe we should just upzone all of Portola Valley to R-3???

Let's all head in another direction.

Bill Russell

Sharon Hanlon

From: Don N. Anderson, P.E.
Sent: Wednesday, March 23, 2022 4:43 PM
To: Sharon Hanlon
Cc: Sandi Anderson
Subject: Housing Element Update - Rezoning Objection
Attachments: Roberts Market Rezoning Objection (Signed)_032322.pdf

Town Council:

Attached is our objection letter to the proposed Housing Element Update rezoning.

Please try and include the letter in the Council's packet.

Thanks,

Don & Sandi Anderson

Don N. Anderson, P.E.

Anderson-Nelson, Inc.

March 23, 2022

Ms. Laura Russell
PV Planning and Building Director
Town of Portola Valley
765 Portola Road
Portola Valley, CA 94028

Re: Housing Element Update
4420 Alpine Road
Commercial Property Rezoning

Dear Ms. Russell:

As owners of the commercial property known as Robert's Market located at 4420 Alpine Road (Parcel #079-072-090), we are voicing our opposition to the re-zoning of this property from Commercial to Multi-family (minimum 20 units per acre). The property is leased to George Roberts, Roberts of Portola Valley grocery store. The property has been under lease since 1976 and serves the Town with its grocery needs. The current 55 year lease will not expire until September of 2031, 9 years from this coming September. There are two (2)-22 year extension options associated with the lease which we intend to execute to its fullest extent. This property has been in our family for three generations and we intend to pass it on to the fourth generation, who will continue the lease agreement and current use for many years to come.

Our main objection to this rezoning is that our Property does not meet the State's Department of Housing and Community Development (HCD) requirement that there will be a change of use during the next 8 years Planning Period. As we understand it, the Town cannot rely on rezoning of our property to satisfy its state requirement, unless it provides the HCD with "**substantial evidence that the current uses of my property is likely to be discontinued during the planning period**", i.e. during the next 8 years. We also understand the Town is required to explain in its application to the HCD how it has made a determination, considering "**all factors including the extent to which existing uses may constitute an impediment to additional resident development...existing leases and other contracts that would perpetuate the existing use or prevent redevelopment of the site**" during the next 8 years. As noted above, as stated above the lease exceed the 8 year Planning Period requirements of the HCD and we will extend them again as they come up for renewal. We've also explained that we have no intent in the foreseeable future but to continue the current use as it is today.

Per this letter, we are demanding that this letter of **OBJECTION** to a rezoning our property be filed with the Town of Portola Valley's submission to the HCD for their Rezoning Plan for Low Cost Housing. This letter clearly shows what our future intentions are for this property and it clearly exceeds the 8 year Planning Period required by the State HCD filing requirements.

Sincerely,

Sandra Jelich Anderson

Cc: George W. Jelich