

**Date:** 05/01/24

**To:** Portola Valley Planning Commission

**From:** Jim White

My concern with the totality of the building code proposals is that the four targetted properties will be less likely to produce units, and as a town, we will be in an increasingly weak position to retain local control due to significant unit underperformance. Sadly, as has been stated by commissioners and staff the goal is to continue to maintain tight control through objective standards and ideally drive projects into subjective review will most likely achieve the opposite - loss of local control due to limiting and discouraging development. Lastly, I believe if HCD looks closely at the proposed code, I believe that it could conclude this is unlikely to produce the units and affordability given the demands and constraints as you have heard from at least Ladera Church, Rich Theasing, and myself, which comprise 3 of the four subjected parcels.

1. **You are setting every project up for discretionary review through unrealistic objective standards.** A simple example is grading. You have not adjusted the standard yet, but you have increased FAR, CAR and want to encourage single-story buildings which require more grading. It will be virtually impossible not to trigger grading subjective reviews. The town says it will “segment” that subjective review. How will a subjective review that now covers building size, location, configuration, etc., be segmented? The result is a non-predictable approval path when **essentially ALL projects by design** will be forced into a subjective process. Uncertainty is a disincentive, adds costs, time, and likely significantly restricts what can be done. This fails the basic objective that a clear ministerial path for approval is created - I don't believe it will be as described above.

2. **Feasibility and Flexibility:** No meeting or review with site owners—even though two owners want very simple and low-cost structures, has not been taken into consideration with the zoning code. Limiting possible uses the owners intend in design and unit configurations. So you are trying to move forward on zoning that no one knows if it works, or if it does in a very tightly constructed set of constraints on exactly where building will be forced on the site. If the goal is to encourage and support affordable development, we don't feel like our needs and goals are taken into consideration

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**Repeat Site-Specific Feasibility Testing Required**

After the April 17, 2024, Planning Commission meeting, consultants conducted comprehensive site-specific feasibility analyses to test whether the proposed development standards would facilitate the unit production at the densities set forth in the Housing Element. Testing results revealed potential constraints on site development; however it was determined that a miscommunication occurred and the values used to test the proposed daylight plane standard were incorrect. The Planning Commission/ASCC Subcommittee has requested that the site testing be repeated to properly assess the impact of the proposed daylight plane development standard. This testing will require approximately one more week. Accordingly, the Planning Commission should consider continuing the meeting to a date certain of either May 6 or 7, 2024, to allow time for repeat site testing. Staff recommend the Subcommittee review the site test prior to the next public meeting to assess whether further revisions to the Draft Zoning Code amendments are required.

3. You have incorrectly been told, and it has been stated several times, “Objective standards don't matter since a developer can always use density bonus concessions or waivers.” As someone who has used the Density Bonus in Portola Valley with two concession requests and several waivers, I would say it is a gross mischaracterization and that the process of producing building standards that force using state laws to “overcome” burdensome and prohibitive standards is not what HCD intended for a clear ministerial approval path for the zoned inventory parcel properties.
  - a. Willow Commons Density Bonus Concession request:  
<https://www.portolavalley.net/departments/planning-building-department/development-projects/willow-commons>

b. Stanford Wedge Density Bonus:

<https://www.portolavalley.net/departments/planning-building-department/development-projects/stanford>

4. COSTS. I have yet to see one discussion or analysis on the cost-benefit of decisions—instead of “why not,” throw it all in, and we can deal with it down the road. Call me skeptical, but I highly doubt all the follow-up work on simplicity and cost consideration will be done when the only four lots for zoning are all focused on lower-cost low/moderate density, which this code clearly doesn’t support.

**BACKGROUND**

The draft Zoning Code and Zoning Map amendments are the first required step to implementing the Portola Valley Housing Element and do so in two ways:

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1. The amendments bring the Code into conformance with State Law and implement various programs of the adopted Portola Valley Housing Element; and
2. The amendments rezone several parcels to new zoning classifications as identified on the Housing Element’s Adequate Sites Inventory. Without a rezoning, these sites cannot be made available to be developed at the proposed densities and affordability levels as committed to in the Town’s Housing Element.

5. **Do it right-** we have consciously decided at the town level to ignore prior deadlines, yet this one, we will submit as fast as we can with known flaws and gaps in the plan that miss many marks - as stated long list of work to do:

**List for Future Consideration**

The Subcommittee prepared a "List for Future Consideration" to track additional items that fall outside the scope of changes to the Zoning Code and Zoning Map required for Housing Element implementation (see Attachment 2). The Planning Commission and ASCC would like to continue to hone this list and share it with the Town Council for its consideration in the near term.

The rush now seems misguided and leaves the property owners with major uncertainty on what, if anything, will change down the road. The Town Council has made repeated decisions not to follow the state timelines and risk being non-compliant. We have not seen or experienced risk, we should not deviate now by trying to submit work that has been only made available weeks ago, gone through extensive revisions, and has a stated list of off-the-mark and missing information. Lastly, none of the property owners, to my knowledge, have had any interaction with this final set of information and its technical implications. Approving this without some shared buy-in seems irresponsible and setting up the town for future disappointment in not seeing anything close to what they plan for in the Housing Element Inventory.

**Necessity of Timely Adoption of Zoning Code and Map Amendments**

On February 5, 2024, the Town received a letter from the Department of Community Development and Housing's (HCD) Proactive Housing Accountability Chief stating that while the Town had committed to March 2024 to complete its necessary rezonings, since it did not adopt a compliant housing element within 120 days of the original statutory due date of January 31, 2023, any rezonings required to make the identified sites available to the Town's RHNA required completion no later than January 31, 2024. The Town sent a response to HCD on March 4 outlining the Town's plan for moving forward the Zoning Code amendments beginning with the Planning Commission's March 20, 2024, public hearing to review the draft.