

AD HOC AFFORDABLE HOUSING COMMITTEE MEETING, TOWN OF PORTOLA VALLEY, APRIL 30, 2013,
SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Present: Steve Toben, Chair
Susan Dworak
Bud Eisberg
Wanda Ginner
Judith Hasko
Judith Murphy
Jon Myers
Andrew Pierce
Onnolee Trapp
Carter Warr

Absent: None

Others: Nick Pegueros, Town Manager
Karen Kristiansson, Principal Planner

(1) Call to Order [7:00 p.m.]

Chair Toben called the meeting to order.

(2) Oral Communications

A resident from Wyndham Drive, thanked the Committee for its hard work. She had read the notes from the last meeting, when someone had asked about the legal parameters, limitations/freedoms, for the funds from the sale of the Blue Oaks lots. In the discussion of the draft mission statement, under Inclusionary Housing, it says “. . . the Town will decide how to apply the proceeds from that sale after feedback from the Ad Hoc Committee on the criteria to apply in assessing means of satisfying the requirements . . .” The money is integral to the direction the Committee goes as they have their mission statement and design criteria.

Chair Toben said staff will note her concern, but since this particular question was not on the agenda this evening, they are unable to take it up. He said the staff will get comment back to her on this question.

(3) Report from Program Assessment Subcommittee (Mr. Eisberg, Ms. Hasko, Mr. Pierce): [7:02 p.m.]

Chair Toben introduced the memorandum from Subcommittee 2. He commended Ms. Hasko in particular and the other members of the group for their serious analysis of existing programs and formulating recommendations on where to go from here. He also thanked Mr. Pierce for his contributions. The plan is for Ms. Hasko, Mr. Eisberg and Mr. Pierce to kick off the topic. First there will be questions from the Committee members to the Subcommittee on their report, followed by comments.

Ms. Hasko gave some background on their task. She described the memorandum as an attempt to summarize what the programs are, the key factors noted, and notes from published materials. They made an initial attempt to prioritize the programs the Town Council might focus on in trying to meet the Town's RHNA requirements also considering the work the first subcommittee did and the comments and feedback they received.

Ms. Hasko described the five programs in the current Housing Element that directly relate to the availability of housing units that can be used to meet the Town's RHNA:

- Second Units – independent living units with living, sleeping, kitchen and full bathroom facilities on the same parcel as a single-family residence

- Inclusionary Housing – developers to provide 15% of new lots to the Town for below market rate (BMR) housing as part of any subdivision, as occurred most recently for the Blue Oaks Subdivision
- Multi-Family Housing
 - Institutional Multi-Family Housing – such as the three institutions that already have multi-family housing: Stanford Wedge, The Sequoias and the Priory, did not prompt a lot of comment and concern
 - Other Multi-Family Housing – such as potential purchase of additional lot where additional multi-family housing would be, prompted more comment and concern
- Shared Housing – wouldn't count toward RHNA fulfillment but would help meet the Town's housing needs
- Potential Housing Impact Fee – to be imposed on new development projects; the proceeds could support affordable housing development in suitable locations in Town

Ms. Hasko said the initial prioritization based on feedback and commentary heard would be:

- Priority 1: Second Units – Community comments and discussions led to considering second units as a substantial portion of meeting RHNA requirements, but they cannot be the sole means of meeting those requirements
- Priority 2: Inclusionary Housing – As there are no new subdivision plans, and although it should be a way of meeting the RHNA requirements, nothing in the near term is likely to fall under this category; the Planning Commission is to reassess what this should be and how it should work
- Priority 3: Multi-Family Housing – The Institutional Multi-Family Housing was less controversial in terms of existing locations; potential new sites is the area of concern
- Priority 4: Potential Housing Impact Fee – Explanatory materials were distributed; this option is still being explored
- Priority 5: Shared Housing – This program is prioritized last because it doesn't help meet RHNA requirements; however, this program should be considered as a way to meet community needs

Suggestions for Current Program Modifications: Though not listed in order of priority, some items would require Town Council action, such as approving an increase in unit sizes, approving more than one "second unit" on the same parcel, shortening approval processes. Some items are easier, such as updating the Town website to make information more available and highlighting the programs, in more of a marketing and outreach effort.

Ms. Hasko said the list of recommendations was not exclusive of anything else and was just a starting point that people could add to. The recommendations list is also subject to scrutiny for what is actually legal, what the process would be for getting from where we are today to implementing this. She said this is a list of ideas to explore and not specific initiatives. Because of the emphasis on second units, the subcommittee thought it would help to provide more contextual commentary for arguing in favor of second units and their advantages and then Mr. Pierce pointing out some things that people need to consider because second units do have an impact on the community in ways that maybe not all proponents appreciate.

Mr. Eisberg listed some benefits of second units:

- Maintain neighborhood character – would need some kind of review, perhaps expedited, even if ordinances were changed, on site and architectural compatibility

- Built at homeowner's expense – no public subsidy required
- Provide options for seniors – People ready to downsize from a large house but wanting to stay on their property might move into a smaller unit and either rent out or have caregivers or family members in the main house; another option would be to house caregivers in the second unit
- Allowing larger second units – Second units in Town have been restricted to 750 square feet, which could provide housing for some low- and very low-income categories, but larger units might be able to accommodate the medium-income category, in which Portola Valley falls short of meeting its RHNA requirement
- Distribute affordable housing solutions geographically – that's a good thing
- Self-selecting solution – Second units are not an imposed solution; they won't pop up like mushrooms because some people would volunteer to provide second units and others would decline to build them

Mr. Eisberg noted that imposed solutions, as seen in some other Town projects, can be contentious and seem threatening to people

- Administrative – Second units are easier administratively in that they are monitored, administered and managed by the homeowners; some aspects of monitoring would have to be discussed, as with any multi-family or second-unit or any other program that is used

Mr. Pierce agreed that second units are likely to be how we satisfy most of the RHNA. For a place like Portola Valley, it would be inappropriate for regulators or anyone else to say we can't do it that way. However, we would have some concerns about second units even if there was no such thing as RHNA, and we ought to think about those things before going willy-nilly and saying this is how we're going to solve all of our problems.

The first issue is capacity – we are already putting in more second units in towns of this size in the Bay Area, but that doesn't mean the capacity is unlimited. There are certainly areas where it may not be practical or topographically possible to put in second units. If we amend zoning, planning or environmental regulations, we must remember we're doing it Town-wide. So if someone can add a 1,500-square-foot building, they can add it anywhere. We have to be careful about that. He said there would certainly be some oversight issues. He said the units would not be built by professional builders, wouldn't necessarily have lenders keeping an eye on them and wouldn't be managed out by professional rental agencies. He said that building quality is a consideration as well as tenant quality. There are also concerns about residents applying for permits for second units without the intention of renting them out, just to get approval for construction.

Mr. Pierce said he agrees with Mr. Eisberg about second units maintaining the neighborhood as long as we pay attention to setbacks and views. It is self-selecting solution unless a neighbor does it two feet from your property line. Mr. Pierce said his comments are meant to be caveats, not reasons not to go forward with it.

Chair Toben thanked the subcommittee for the very thoughtful presentation. He asked for questions from the Committee first, and then the audience.

Ms. Ginner asked for elaboration about shared units not counting toward RHNA requirements, and the comment that second units can't fulfill the Town's entire RHNA obligation.

Ms. Hasko said the shared housing doesn't create an extra unit, it's moving two households into one unit. It's a way of getting more housing capability, but doesn't fit RHNA's definition because it's not making an additional unit available. The reason we can't fulfill only on second units is statistical. We're looking for 64 units in the next cycle. Right now we're forecasting six per year, if all goes well, without another economic

downturn (which affected the numbers of the last cycle). So for the eight years at six per year, that would be 48 units, and we'd still have to come up with 14 more to reach 64.

Ms. Ginner asked if we're not allowed to or we're not likely to fulfill the requirement with second units.

Ms. Kristiansson said we are not allowed to. She said it was a fuzzy thing in the state law. When staff talked to the state Housing and Community Development (HCD) Department with the last Housing Element, they were told HCD wanted a multi-family house component in every Housing Element – which is why in our Housing Element (and Hillsborough's and Atherton's, etc.) all have an Institutional Multi-Family Housing component. Being able to build housing at the Priory for the Priory staff qualifies as multi-family housing and meets the requirement that we are doing some multi-family housing and it's not all being done with second units.

Ms. Kristiansson said that although the law does not specifically say it can't be all done with second units, that's what HCD said, and a specific case was cited. This issue has also been the subject of court challenges and decisions. Responding to questions from Ms. Trapp, Ms. Kristiansson said that no units at The Sequoias currently qualify as multi-family housing, and the eight units at the Sequoias are in the above moderate category.

Mr. Pierce said that in terms of capacity, if we plan for 64-second units, at some point we're going to run out of lots.

Ms. Ginner asked if in the next cycle we needed to find more sites with more units. Ms. Kristiansson said it would be a lower number in the next cycle.

Mr. Eisberg said shared housing could be counted if somebody modified an existing in-law unit or something in their house – an interior second unit.

Ms. Ginner asked whether her garage, which has plumbing and electrical, would be shared housing or a second unit if she had the interior finished off. Ms. Kristiansson said it would need a separate kitchen and entrance, sleeping quarters and living space.

Ms. Dworak asked if the statement, "Shared housing does not produce new housing units necessary for compliance with RHNA" is always the case. Would shared housing never count toward RHNA requirements?

Ms. Hasko said she intended to say that if a unit meets second-unit criteria it would be a second unit and not shared housing. Shared housing doesn't fit the criteria for RHNA second unit, and Ms. Hasko doesn't think that would happen unless the law changes.

Mr. Eisberg said shared housing in on the project list because of the HIP Housing program.

Ms. Kristiansson said the HIP Housing is a nonprofit that runs the program in a lot of San Mateo County cities. It's a mistake to look at the Housing Element as just a document to get state approval – it's the Town's document. We have a growing senior population and many people are more interested in shared housing, which is a way to potentially address a need in the Town. That's the bigger reason it's included in our Housing Element.

Ms. Hasko agreed, pointing out that it benefits the Town as demographics change and people want to stay here. Shared housing provides a way to stay, occupying a house with someone else.

Mr. Warr said Portola Valley has a number of multigenerational households using the shared-housing mechanism. They might like to be able to create multiple second units on the same property, so that multiple generations have the opportunity to separate themselves periodically.

Ms. Murphy said it would be good in caretaker situations also, versus having someone drive in from Gilroy every day.

Chair Toben invited audience questions.

Monika Cheney, Goya Road, thinks a lot of outspoken folks have come to various meetings talking about their preference for second units. One benefit she hasn't heard is that second units are a way of providing affordable housing that's less likely than multi-family housing to make the Town susceptible to litigation concerning a protected class. Buying a large parcel of land, putting in 10 units and then choosing who gets to live there has caused significant litigation over many years in California, she said, and it's ugly. She cites this legal safeguard as a significant bonus to put in the column favoring second units.

Most of us moved to Portola Valley to live in a rural and rustic place and she wondered how long we could go on adding 64 units every eight-year cycle. We should spend time trying to reduce the number of units being imposed on us, or not accepting the money we're taking from the state. She realizes these are higher-level questions and not the focus of tonight's agenda, but it feels like Pandora's box and is all the more reason to monitor a solution we can actually manage so our population doesn't increase by 500 over the next 40 years – which would be significant in Portola Valley.

She wants to hear more legal analysis on second units versus multi-family units. Ms. Kristiansson's statement about the "fuzzy" interpretation of the law makes her uncomfortable with proceeding when we don't really know what's required. These are significant issues as we make a plan for how to deal with affordable housing, and it's important to actually know what we have to do.

Mr. Warr appreciated the commentary on benefits and concerns about second units, but missed seeing something similar regarding multi-family housing. He suggested needing a good definition of multi-family housing – is it a congregation of units or something else? The images the Housing Leadership Council projected on the wall scares the heck out of all of us. The same kind of benefits and concerns list would be very helpful, including those from the public that aren't reflected here – such as making sure those units are dispersed, that they're put somewhere that isn't on the scenic corridor, that they don't appear to be a congregation of units, but that they look more like single-family units, those kinds of things.

He said he understands the timeframe is short, but a list of benefits and concerns related to the Priority 3 program is important. He said the public in general supports doing more with second units, but multi-family units are the elephant in the room – what happens if those units are congregated together in a multi-family facility? How is it managed? Who owns it? Does it receive public funds, or is it more organic or market-driven?

Ms. Dworak said that when discussing suitable locations and sites for affordable housing it would be incredibly helpful to have a Town map indicating where we cannot build for environmental reasons, marking creeks, open space, etc. She said it would not be that difficult to do and would be a powerful tool when looking at available sites and lots where we could put housing.

She asked what the plans for a map are and how we get that started.

Chair Toben asked Ms. Kristiansson whether a map could be included as part of the Housing Element update process, which will begin after this process is concluded. Ms. Kristiansson said yes, noting that people at the first meeting saw all the maps that are in the current Housing Element. Although a couple of them incorporate some of the information Ms. Dworak mentioned, she said it isn't all in one piece.

Ms. Murphy said it would be really helpful to have it now, while we're grappling with this issue. It would also help answer some of the questions from people in Town.

Ms. Dworak said we're just starting and we don't need definitive answers to everything. We don't need environmental impact reports on them, but the map could identify potential sites so that at least we know.

Mr. Warr said he was looking at categories beyond institutional and vacant land. There may be opportunities on existing commercial or residentially zoned land, or to subdivide existing homes where the floor area wouldn't increase but the number of units might. Some open space land may be better used for something else. There are homeowners' associations that don't currently allow second units as part of their restrictions. He said he's looking for ways to disperse these units.

Chair Toben asked for questions from the audience.

Ms. Wonderlee said the current Housing Element shows only 55 APNs (Assessor's Parcel Numbers) designated as vacant lots acceptable for building, which is a fairly small number.

Mr. Eisberg, referring to the Stanford Wedge, asked how 83 units on 2.5 acres was calculated.

Ms. Kristiansson said the 83 units includes the required density bonus. She said the Town's multi-family institutional housing program allows for a project, which was designated as Stanford Wedge, that is mostly affordable housing to basically get a density bonus. That would also get the state density bonus. That's why the number is so high. With single-family units, 20-something units would be allowed on the Wedge, but the multiplier would be basically times three. Constraints in the need to comply with CEQA, and potential impacts on traffic and the environment could ultimately reduce the number of units. Such a project also would have to comply with design guidelines.

Bernie Bayuk is alarmed about the subject we all think about but nothing is being done about. He said the bureaucrats in Sacramento say to build 58 and we spend all our energy on how to build 58, but in eight years there will be another group. This is the death of Portola Valley and towns and cities like us. He asked if we could spend some energy meeting with other towns trying to lobby to get this death knell, which is going to happen, changed or killed. Towns and cities have personalities that vary. The bureaucrat just sees a number. He said Towns are built on premises. Portola Valley was built on premises – one house per acre, no high density. We incorporated and that's why we have a mountain to look at, a forest. He asked if anyone was spending any time on how to defeat these requirements that are coming from sources who don't understand the outlooks and values of those who live in these places. He suspects they're just academically looking at formulas. Isn't there a committee that's trying to lobby and why is Portola Valley not a part of that?

Chair Toben said he didn't have an answer to that question, but noted the eloquence of Mr. Bayuk's concern about the larger philosophical issue, how it compromise the Town's character and the ultimate end result over decades.

Ed Wells, Naranja Way, said he's been a landlord of a second unit in Westridge for 29 years, and he hears a lot about second units. If the Committee wants someone to come in and talk only about second units, he said we could really profit from an evening on that subject just with what he's heard already tonight.

He said the amnesty program was poison, and we don't need another one. We need an ombudsman who can be approached by property owners who are renting and who can – at the expense of the Affordable Housing Fund – hire a building inspector and an architect to advise them what it would take to become legal or to apply for a variance. He said all of us have a fear of government and no one wants to invite the building inspector to come around their house. He said you have to accept that. The money would be well-spent to find out about that.

Mr. Wells said he ran the database for Westridge for four years, and knows a lot of people who have rentals who really don't want to come to Town Center to ask a question because they know they're going to see the geologist, the attorney. We need an ombudsman paid by the Town to help property owners who are now undocumented or landlords who have little appreciation for the liability of having people renting when in fact their homeowner's insurance will not cover some types of detached units.

There's a whole area that the Town ought to focus on, make a publicity campaign, get somebody available for people who are now renting, whether they're going to turn out to be second units or just somebody renting a room to a college student.

Mr. Wells also commented on the inclusionary housing fund. In 1990 the Town passed the ordinance creating the Affordable Housing Program and decided to charge 15% in lieu on subdivisions and they didn't get any subdivision money into that fund until December 2012, with the sale of the Blue Oaks lots. But there was \$145 in there 10 years ago, which has grown to \$158. The Town allocates its income from investments, so that money came from sources that are not discussed in this report. A subdivision is a parcelization of five units or more. I don't know what happens with subdivisions of fewer than five lots.

In response, Ms. Kristiansson explained that the ordinance applies anytime multiple lots are created, whether it's a lot line adjustment or split or whatever, so in one case where a parcel was split into two parcels, the fee went into the in lieu fund. Mr. Wells said that was a property in Westridge, a five-acre property they cut in two and paid their 15%. It was one of the first things to come on the books in the in lieu fund. He said no one is spending money out of that to do anything useful for affordable housing.

If you put a 1,500- or 1,600-square-foot house as a second unit, he said you'd have to rezone the entire Town because that would conflict with single-family residential zoning. Further, he said, if you want someone to actually build that house, you can do a lot split and collect the 15% fee when they sell that property. So you're going to cut a property in half, help the owner finance, and not use the City money.

Mr. Wells stated that the Town money needs to be guarded and used carefully to help property owners who are willing to build 1,500-square-foot houses on their parcels if they can split them. At this time, it's very difficult to split lots in this Town due to regulations about lot sizes, slope densities and so forth. The inclusionary language the Town is looking at as an alternative ought to include lot splits.

Ms. Trapp said she understood the question to be what is the minimum number that designates a subdivision requiring the 15% set aside? Ms. Kristiansson said the only thing that's structured is that even if you divide only one lot into two, then you do have to do it, but you don't have to provide a unit but rather pay a fee. Once you get up to seven units, then 15% becomes one lot. She said seven is the magic number.

Mr. Wells said he thought the minimum right now is two acres if it's flat land, where you can divide a two-acre parcel into two one-acre parcels. After that, it depends on things such as slope density and gets very complicated.

Ms. Ginner asked if multi-family housing was defined as rental only or if it was intended to be split and then sold. Ms. Kristiansson said it could be either way.

Program Priorities

Chair Toben moved on to the examination of the priorities for programs that might be considered for the 2014-2022 Housing Element. He expressed appreciation to Mr. Warr for raising new notions about how to build out some of the pros and cons in looking at other programs that Subcommittee 2 put on the table. This gives the Committee a chance to focus on a straw man task that represents the staff's and his attempt to distill what they have received in input from Subcommittees 1 and 2 as a way of advancing this Committee toward the finish line.

The result of that effort is the "Draft Housing Criteria," on which he hoped to elicit some big ideas, providing Subcommittee 3 material to take away from tonight's meeting, do some significant refinement, and bring a new version of the text back to the Committee on May 14. The draft:

- Attempts to provide overarching criteria for prioritization that fairly reflect the high points been expressed through the community outreach process
- Taking the input received, lists in priority order the programs that seemed to range from most to least desired
- Articulate some points within each of the priority areas

Before tackling the draft, Chair Toben discussed consensus. He initially set the objective of the Committee coming to a consensus as a group of nine voting members, which is still a highly desirable outcome. Consensus isn't about everybody singing kumbaya; it means each individual member of the Committee can live with what he/she sees, that there's nothing observed in the proposed text that he/she simply cannot abide. No document would produce universal enthusiasm, but that doesn't mean you can't say, "Look, I can't live with this as a member of this Committee, unless this is changed, unless this is added." He said that's "fair game."

At the end of the day, we hope to have all arrived at a place where we're satisfied that we've addressed the interests as shown here. When making objections or offering comments, he urged Committee members to take into account not only their own individual perspectives, which may derive from where you live, how long you've lived in Town or what your experience with multi-family housing has been in other settings. Instead, he asked them to consider wear the larger community hat and be mindful that the Town is doing this out of a sense of its obligations under state law, regardless of what we think about the appropriateness of the numbers we've been given.

Having explained how he'd like to proceed toward consensus-building efforts, Chair Toben asked whether the listed rankings of the five priorities correctly demonstrate the order of preference expressed by the Committee.

Ms. Murphy cited Item 4, "Local control should be maintained over zoning, affordable housing locations and design, and to the extent possible under Fair Housing Law, selection of occupants," which everyone stressed enormously at every meeting. A lot of suggestions and comments were made about doing this in a way that's market-driven so that we don't fall under Fair Housing Law and that we should somehow prioritize the way we do it to avoid that. If we fall into that area and say we'll do this and this and this so it doesn't affect us too much, that's a lost game. But if we do it so that those laws do not apply, we don't have the concerns about lawsuits, runaway trains, drug busts and all those things.

Mr. Warr said we could say it needs to be market driven and provided in a way that doesn't impose – that all the funds are used to help and encourage, rather than buying land and using public funds.

Ms. Murphy said that speaking of public funds, it's clear we would avoid taking any other public funds from the state or region, because that gets you into the whole bailiwick. But she said she's not clear about the Blue Oaks money, which seems to be in a slightly different category. It's clearly public funds, but they're not the same kind of public funds.

Chair Toben said he didn't want to get bogged down in the Blue Oaks money.

Mr. Pierce suggested deleting the last portion of Item 4. The Town doesn't want control over selection of occupants. It would be owner control. The owner is not the Town in any scenario we've talked about, so he doesn't know why we would have such a statement. We could say we want the housing for schoolteachers or firefighters or something like that, but he doesn't think we want the Town Council or the Town saying whom the occupants are on an individual basis. He said that's the wrong road to go down.

Chair Toben asked if the Committee had any objection to deleting that line. Hearing none, it was deleted.

Mr. Eisberg said if the concern relates to the Town's loss of control if it accepted outside funding, perhaps that could be stated more clearly.

Ms. Dworak suggested using the word "private." In the criteria, she would give Item 4 top priority, because the local control is a comprehensive comment that would address issues of the Town's rural character and visual impacts, but she agrees with Ms. Murphy. In counting the number of comments made at the different meetings, control and density were overwhelmingly top concerns.

Ms. Ginner said Item 3 says what we want it to look like. One says we want control. Nothing says what we want the Housing Element to do. We want to attract a variety of people, not just seniors. Mr. Warr made this

comment to me. We shouldn't just be trying to attract seniors. We want maybe singles, families, seniors. We're trying to attract a mix of people compatible with the Town. Comply with the law, I get that. But really what we want the Housing Element to do, and I think the market will do this, is attract a variety of people who could not otherwise afford to live in this Town.

Mr. Warr asked whether that's the case or whether we want to house people who are already here.

Ms. Ginner said if they're working here and not living here, isn't that exactly who we want to attract and house? We can make it pretty generic, but we're not talking about what we want this Housing Element to do.

Chair Toben said some language in the Mission Statement addresses that. It's in a more exploratory stage that we haven't come to yet.

Mr. Pierce said some of that could be incorporated here as well.

Mr. Warr said the overarching consideration in prioritization must address the capacity issue. Ms. Cheney and Mr. Bayuk's comments about what the ever-increasing number of units means is an increase in density and an increase in traffic. Think about 58 units during the last cycle, 64 units in the next cycle, probably 70 in the cycle after that, then 76. That adds up to 268 units – a 58% increase in the number of units in Town. The number of houses in Portola Valley hasn't increased that much since the Town was incorporated. I'm concerned about going down that path. At some point the HCD is going to say, "No, you've really got to do that. Where are these units? Why aren't they built? Why don't you have ground zoned for it? We're going to force you into it."

We were talking about capacity. Breaching that capacity will push on the rural character, visual impacts and massing in a way that the Town won't be satisfied. Portola Valley has no industry, no contiguous unincorporated land to annex, no desire to push over Skyline Boulevard and down toward the ocean. There is a capacity limit.

Chair Toben said he hears Mr. Warr's restatement of many of the points Mr. Bayuk and Ms. Cheney made about where this leads both near term and certainly in the longer term, and it's a terribly important philosophical discussion to have. Still, he said, right now we have an assignment to do as best we can with the 2014-2022 period with RHNA numbers established that dictate a certain timetable for responding and submitting a new Housing Element to HCD. Let's certainly not lose sight of this larger philosophical conversation of the Town's capacity and its essential character, but consider it in the framework of what we're dealing with right now.

Mr. Warr said that in terms of overarching principles, he'd like the criteria to talk about capacity in some way. That there isn't an ever-increasing capacity and at some point there won't be more land for development in any manner, whether it's single-family homes or commercial endeavors.

Mr. Eisberg said comments he heard in meetings made him think we'd need to add onto Town Center, because residents indicated a desire for the Town to get involved in monitoring and administering these programs. He wanted to draw attention to the potential long-term fiscal impacts of going in that direction as we look at the various programs, just to make sure we don't inadvertently increase the size of government.

Chair Toben said that certain programs, like second units, are self-realized and don't necessitate a new government component for oversight.

Ms. Ginner wondered whether the term "rural" needs elaboration. She said where she grew up, rural meant agricultural, whereas in Portola Valley it means wildlife. Ms. Ginner said she lives at the tip of the Stanford Wedge, where there's a lot of wildlife and open space, and if rural means what we have now, she doesn't want to see it disappear. Mr. Pierce said rural doesn't really describe this Town. It's semi-rural, which means people have horses or chickens, or rural residential. He said there's no planning document that would show Portola Valley as rural.

Chair Toben wanted to make sure we don't lose Mr. Eisberg's point about criteria to minimize the financial impact on the Town, and the rankings should reflect an interest in programs that take the least toll on the Town's fiscal wellbeing.

Mr. Eisberg said he understands that the state does not look upon this Town as having geological problems, they just see it as land. Ms. Kristiansson said the Housing Element explains these issues to some extent, and the state has a database of land use, but it's complicated.

Ms. Dworak said that on the basis of community input and all the valuable work this talented group has put together, the criteria must incorporate four concepts – control, density, economic feasibility and legal compliance. Whether we hire outside counsel or look at peer review, just to dot the i's and cross the t's – those are four common denominators that she found in every one of the meetings.

Chair Toben said he wanted to make Subcommittee 3's task manageable and he wants to focus on the assignment, which is to craft criteria that will be used to select and prioritize programs for inclusion in the next Housing Element.

In response:

- Ms. Dworak and Ms. Ginner suggested terminology such as “fiscal sustainability” and “minimizing fiscal impact.”
- Ms. Murphy said Item 4 should have top priority.
- Mr. Pierce disagreed. He said Items 1, 2 and 3 are much more important than local control.
- Ms. Ginner resurfaced the issue of capacity.

Chair Toben said we haven't decided on language around the whole capacity question yet. Although he doesn't think it influences the selection and prioritization of the programs in the Housing Element, it can certainly be bookmarked and give this subcommittee the task of fleshing that out.

Mr. Warr said he was talking about capacity because certain new programs would potentially hit the capacity limits earlier. We need to know what our capacity looks like to be able to judge those programs against that backdrop for the next Housing Element cycle and the ones after that.

Chair Toben said that arguably, 88 units on the Stanford Wedge on three acres is a much more efficient use of land and a much better allocation of capacity concerns by maintaining much more open space elsewhere in the other 6,000 acres of our Town. Chair Toben asked Mr. Warr if he would favor that for capacity reasons.

Mr. Warr said he's not sure; he doesn't think the founding fathers would in any way support the idea of 24 units an acre even if it's more efficient. Blue Oaks has only 36 houses on 270 acres. Even 84 units on 70 acres is higher density than the Town was zoned for or was envisioned. Our Town has 2.5-, 2- and 1-acre zoning.

Ms. Murphy said with the capacity issue we want to be careful to not build more units than required and use up land and space, because you can't count what you've already done in the next Housing Element cycle.

Ms. Dworak said that's where the legal compliance issue comes in. Both Ms. Kristiansson and Mr. Pegueros have articulated this quite well in the past that HCD does care. They're not forcing us to build on earthquake zones and destroy our creeks. We can go back to them and say, “Hey, this doesn't work for us,” and they actually look at the topography and our restrictions. That's why we must be clear about what we're legally required to do. If we're not legally required to do it or it's not economically feasible to do, that's a huge criteria we should factor in.

Ms. Hasko said if it's a question of law, that's not for the Committee to be deciding. It's for the Town Council to explore fully, as a parallel process. She didn't advise the Committee to stop looking at that and challenging whether something makes sense, but the legal question is a very different and large undertaking. She said it is okay for our Committee to focus on what the criteria should be in the narrower window of the 2014-2022 cycle. She said by all means pursue separate appeals and questioning of – "What are we doing here folks? Shouldn't we get together with other towns?" – if that's how people feel.

Mr. Pierce said we're trying to balance two things. He agrees with Ms. Ginner about making a positive statement, because affordable housing is going to happen and we're supposed to plan for it. We want housing for people who work in the Town and want to live in the Town. On the other hand, we don't want any more people here. We hear that over and over and over again. The only way to balance those two things to have a positive statement, using "within the capacity of the Town" as the qualifier. If you say capacity, you're leaving it open – it could be economic, biological, existing zoning, which could be geological. But that's a way of capturing this.

Chair Toben said this is very good input for Subcommittee 3 to consider and the staff will have a chance to put its own input.

Mr. Wells said they were missing a vital criterion. We need a prudent program for using the money that's in the in lieu fund now. We can't waste it and we need to work on it to make sure we figure out how to get the best result from the use of those funds.

Chair Toben appreciated the comment regarding the value of the in lieu fund as a mechanism for lubricating some of the development. Chair Toben asked if there was any strong dissent from the basic ordering of the four priorities that were distilled from the input.

Ms. Trapp said she doesn't think it's wise to have inclusionary housing as the second priority. Based on input from meetings, people have had unfortunate experiences and it hasn't resulted in any units built. We should be looking at the reality. Maybe Item 3 has more potential than inclusionary housing.

Mr. Warr said inclusionary housing should be last on the list because market driven programs are more likely to succeed. There was general agreement by the committee.

Mr. Eisberg said we all realize that inclusionary housing probably won't work in this next cycle because there's nothing on the horizon. But that's not to say we don't like it. He likes it. The Town has stated it is looking at a very simple revision to revive it. It's a decent program and he likes it, but since it's just probably not likely to be used we can drop it down on the list.

Ms. Cheney requested clarification about "other multi-family housing." As Mr. Warr mentioned, it could be a market-based development or it could be a Town-purchased property. You're not distinguishing between those two, but they're wholly different projects. A developer coming in and buying a piece of property and putting in multi-family housing is very different from the Town buying a piece of property and working to put in multi-family housing.

This is why people have different reactions to Item 4 on the last page. I think five people read it in five different ways. When they saw "local control" over who gets units, some people were thinking private landowners or developers can choose whom to sell their units to, and other people read that as the Town decides who wins the lottery. This needs to be clarified. It's kind of a giant elephant in the room from the back rows here. Is the Town still planning? Is this still within the spectrum of possibilities?

Chair Toben said we need to clarify the distinction between private capital versus public capital and it may require some careful articulation because, for example, in the case of the \$3 million, it was proposed that we have a private/public combination of financing that would enable a project that would in all likelihood be directed by a nonprofit developer. He said the point was well taken that there could be elaboration of whether the priority should be heavy Town involvement versus incentives for market-driven development of multi-family housing.

Ms. Cheney suggested that any Town funds that go into something is like being a little bit pregnant, you're either using Town money or you're not in terms of legal issues that might arise.

Mr. Warr said using the money to incentivise, to pay for studies, pay for staff time, to encourage or lubricate the process would be a more effective way to help people. People are potentially avoiding certain programs, not dissimilar to the amnesty program, because they're afraid to get involved in the process – the environmental impact, review, mitigated negative declaration, all of the associated studies. Private developers would be aghast to try to pursue planning a development in a Town like this. They're thinking, "How many years and how many thousands of dollars?" The Town saying, "We'd like to help you do this," would take some of the fear off. Then more market-driven units would likely happen. Using money from the in lieu fees to actually do something that is really good to move things forward rather than trying to buy land and then develop it would likely receive a lot more public support because then it's the public that would actually be doing it.

Ms. Hasko said the only reason we prioritized it was because if you're going to make a change to a program to make it work, you get a long lead-time and you don't see subdivisions being planned right now. She said she's fine with dropping it down because she doesn't think it's a near-term solution, but doesn't want to send the message to the Town Council or Planning Commission to postpone reviving and revising the inclusionary housing program.

Chair Toben asked to now look at the second unit priority. He asked for reactions to the distillation of five potential criteria that could be applied in the implementation of expanding the second units program.

Mr. Warr said he doesn't support relaxation of setback requirements, and it's a significant issue.

Mr. Pierce said he didn't know what "second units should be distributed throughout the Town" means because some neighborhoods are more amenable to it than others. How could someone put a second unit on my street when we all live on giant hills of half an acre?

Mr. Warr disagreed. Building a smaller unit on those smaller properties, potentially inside or just a studio size, could really attend to the very low income. Those kinds of properties could participate in a significant way, because carving a unit out of an existing house could add to the housing stock without changing the character of the Town. He agreed that it should say "allow" distribution of second units throughout the Town.

Mr. Pierce asked if a garage would be part of the setback. Mr. Warr said it was.

Chair Toben asked whether grandfathered units that encroach into setbacks would be allowed conversions?

Mr. Warr said if it's preexisting, it probably would involve a variance.

Ms. Trapp said she didn't know anything about setback requirements, but asked if they were the same for a one-acre property, a half-acre property, a five-acre property? She said if you had a five-acre property with a lot of topographical changes, it might be reasonable to change a setback on part of that property that would not be visible from the street or from the neighbors.

Mr. Warr said setbacks differ on both parcel size and zoning district, and existing provisions in the ordinance address topography and geology in very significant ways.

The special dispensation he thinks second units need is about size and allowing them in other zoning districts, maybe some things about parking, financial incentives so you don't end up needing to spend \$15,000 in application fees and environmental reviews to get a 400-square-foot unit. He said there were currently some disincentives in the way permits are processed and reviews are done.

Mr. Eisberg said he would add to Item 3. While unsure about how many units it could produce, the Town has a fairly restrictive ordinance on cabañas, pool houses and such. The idea was to keep them from becoming

second units. A little more flexibility in that ordinance might help. He suggested Ms. Kristiansson or Mr. Warr might have an opinion on that.

Mr. Warr said that potentially would produce properties with multiple second units instead of just one.

Ms. Hasko said she doesn't know the regulations around cabaña versus second unit, but suggested a variation of the theme if the Town is considering encouraging larger units but there's resistance to increasing the size. For properties that are looking for a cabaña and a separate second unit, so it's not an overall increase in building size, one step may be to offer that as a possibly.

Mr. Warr said keeping the overall floor area unchanged would require people to make choices about how size, but we could end up instantly yielding a number of second units without doing anything except changing some rules and allowing people to get to their bathroom from inside the cabaña, because over the last 20 years many properties have added cabañas and guest houses.

Mr. Bayuk asked that one bullet point be added: second units are limited to one per parcel. He said that despite Mr. Warr's comments about second and third second units, limit second units to one per parcel.

Chair Toben said he thought Mr. Warr was suggesting that under certain circumstances it might be possible to have both the guesthouse and converted cabaña count as second units. These aren't easy propositions for any of us to digest, Chair Toben added, but we're trying to figure out ways to come up with creative ideas and solutions, depending on the particular characteristics of the property.

Mr. Warr explained that he thought about the conversion because there's a stock of existing buildings that wouldn't increase density, building counts or traffic, because they're already there. He said literally the change would be to allow cabañas to count as living units and allow them to have a door that goes to a bathroom. Currently, a cabaña is one room with a kitchen, with the bathroom accessible only from the outside. That's a dopey way to say you only have two units. So you go outside and you go around to the bathroom and that's how those units are being used. Young adults, by families in transition, are using them. They're being used as guesthouses or second units already. To change that definition, you might limit the size and say that one can only be so big. Currently cabañas don't have a limit on size. You could build a 2,000-square-foot cabaña, but the bathroom is accessible only from the outside.

Ms. Murphy asked whether there should be an additional bullet point that says something about other innovative ideas, such as providing housing over commercial buildings. She said that's come up as a suggestion, which she thinks is a valuable one.

Chair Toben asked for reactions to the comments in the other three programs.

Ms. Ginner wants to use a term other than multi-family, a total insipid, boring, replacement term.

Chair Toben said Ms. Kristiansson should be tasked with coming up with language.

Ms. Kristiansson said we could just call it institutional housing.

Mr. Warr said his list of things to think about includes looking at:

- Employers as the responsible parties – whether commercial or institutional or even the Midpeninsula Regional Open Space District (MROSD), which has a lot of employees who drive in and out of Town – and apply pressure on them. MROSD is one of the biggest landholders in Town.
- Homeowner's associations and the existing communities, such as The Ranch, which doesn't allow second units in any way, shape or form and could do some things to house their young adults and employees

Chair Toben said these were very rich ideas that should be added. He asked for reaction to the Housing Impact Fee discussion. For 20-plus years the Town has had a School Impact Fee that is assessed on new homes and major remodels. The theory is that new homes generally have more kids so these homeowners have to pay thousands of dollars to offset the impact on classroom enrollment.

The theory behind the Housing Impact Fee is similar in that when you build a new home on a previously undeveloped parcel, you need supporting services to run that home, and the Housing Impact Fee is a way of offsetting the cost of providing those additional services. As the material provided shows, these fees can generate a lot of money, which can be applied to purposes that relate to this whole task.

Mr. Warr said before he'd support a Housing Impact Fee, he'd want to see the problem with money. He said there hasn't been a problem with money. The Town has had money and it hasn't used it. Mr. Warr said you should have a program that uses the money or have a reason to raise money before you institute a tax. You can call it a fee, but it's a tax, and it's a disproportional tax to the people who'd have to pay it.

Ms. Ginner said Palo Alto ran into problems when it tried to assess parking districts. There's something that says you have to show the benefits to the people who are being assessed.

Mr. Pierce said in the abstract it seemed completely counterintuitive. He said if you built an office building, yes, you might have to offer housing, but if you're building a house, you'd automatically be penalized because you're building a house. He said the idea that a house has housing impact? Well, they're building a house. He said he can see School Impact Fees because the schools have to get bigger as houses are built, but here you would be taxing people for doing what you want them to do, which makes no sense.

Mr. Eisberg said he would like to see some examples of what the money could be used on.

Ms. Dworak said as a matter of principle the fee might create some resentment depending on what it's being used for. For example, if you charge a fee for a new home and use the money to relax permit fees or other things for second units, basically you're requiring this new person to pay a fee that would help the rich neighbor or the mansion next door build a second unit that generates income. She said the neighbor can pay for his own second unit.

Chair Toben said the idea may deserve some creative analysis to address some of the concerns.

Ms. Trapp said if you are going to assess a private homeowner for impact, and then you put in a multi-unit building, what is the impact of those units on the Town itself? There would be environmental effects because of more houses putting out whatever pollution they create, traffic, whatever – so she asked how you could make something like that equitable.

Chair Toben summarized that Subcommittee 3 – Mr. Myers, Ms. Ginner and Mr. Warr – would take the input from tonight and refine the documents.

(4) Discussion of Draft Mission Statement and Criteria for Achieving Affordable Housing Requirements:
[8:56 p.m.]

Chair Toben said time is running out and we didn't get a chance to discuss the Mission Statement. He suspects it will be less controversial than issues related to the housing programs.

(5) Discussion of Next Steps for the Subcommittees:
a) Opportunity Assessment Subcommittee: Ms. Ginner, Mr. Myers, Mr. Warr
b) Community Outreach Subcommittee: Ms. Dworak, Ms. Murphy, Ms. Trapp

Chair Toben said he was sorry that we didn't get a chance to talk about the Community Outreach Committee or any additional activity on the part of Subcommittee 2.

(6) Wrap-Up and Discussion of Next Meeting: May 14, 2013: [8:57 p.m.]

Chair Toben said the May 14 meeting would be the next pass at finalizing the documents that we have undertaken as a first draft and the main focus for the conversation. He, Ms. Kristiansson and Mr. Pegueros would support Subcommittee 3 in that activity.

He asked whether Ms. Kristiansson or Mr. Pegueros had any closing comments.

Mr. Pegueros asked whether there's a need for additional community outreach.

Ms. Ginner said she was really disappointed in the low turnout. In response to her asking whether any online activity continues, Mr. Pegueros said people are still sending things in.

Ms. Ginner said she thinks we need lots more community outreach, but not now.

Chair Toben, in response to Ms. Ginner's question about discussions on possible uses of the Blue Oaks funds, said that could be the focus of the Committee's final meeting. He said there are two more meetings – May 14 and May 28, so that is within the scope of possibility for the final meeting.

Mr. Warr suggested that before sharing this with the Council or before finalizing is to actually reach out and say that based on what we've heard and thought about, we'd like to float this trial balloon across your bow and ask what you think. We should not assume. Once there's something new, there will be more coverage.

Chair Toben said maybe this trial balloon period could fall between May 14 and June 12, when the Committee makes its final report to the Council. It may not have to be in the form of a calendared public meeting, but it could be somewhat more informal.

Mr. Warr suggested some kind of a survey.

Ms. Murphy said asking for responding comments would be a less loaded way than a survey.

Ms. Trapp said we've learned a lot and we'll learn ever more when Subcommittee 3 gets its report together. We have to pull more together before we send out a survey or letter, but once people see the whole thing, they'll have much more basis for responding.

Mr. Warr said he thought there would be some lightning rods with aspects that people do not understand.

Chair Toben suggested that on May 14 the Committee commits to some formal public outreach before June 12, when the Committee reports to Council.

Ms. Cheney said she understands they're still working on the final document, but having looked through all these materials she's not sure she has a sense for what the litmus test would be moving from one criteria to the next. What teeth these documents have? When do we know we've exhausted our attempts at complying solely through second units, for example? She said she doesn't understand how this document is going to answer that. Would we know a year before the next Housing Element is due? Or a year from now does the Town decide, "Oh, we don't think we're going to get there, so we better pull this together in two weeks"?

Chair Toben explained that the exercise is to inform the revision to the Housing Element, which will begin this summer. This is all intended to provide a starting place for staff and our community to orient around a set of ideas that the Committee has produced over the last several weeks. There will be abundant opportunity for people to weigh in more formally regarding the Housing Element revision, which will happen through public hearings of the Planning Commission and at Town Council level.

Mr. Warr asked if Ms. Cheney means how it cascades – would we go to 2 or 3 or 4 if all the criteria were met under second units?

Ms. Cheney said that very bluntly, her question is, "Are we going to hear a year from now that the Town has bought a property to go out and build high-density-ish affordable housing? She said there seemed to be strong consensus that people in Town prefer second units as methodology to comply with whatever state law may be. A lot of people think we need stronger articulation of what state law actually requires. Nevertheless, when do we know we've exhausted our attempt at fulfilling our requirement with second units? We don't want surprises.

Chair Toben said we can't do justice to her question tonight and would hold it. He thanked everyone for their time.

(7) Adjournment [9:04 p.m.]