

PLANNING COMMISSION REGULAR MEETING, TOWN OF PORTOLA VALLEY, MARCH 5, 2014,
SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chair Gilbert called the Planning Commission meeting to order at 7:30 p.m. Ms. Kristiansson called the roll.

Present: Commissioners Judith Hasko, Nate McKitterick and Alexandra Von Feldt; Vice Chair Nicholas Targ; Chair Denise Gilbert

Absent: None

Staff Present: Karen Kristiansson, Deputy Town Planner
Leigh Prince, Town Attorney
Jeff Aalfs, Vice Mayor and Council Liaison

ORAL COMMUNICATIONS

None.

REGULAR AGENDA

Chair Gilbert said Commissioners would address Item 2 first, followed by Item 1, which would include discussion of the draft site inventory, the best practices material that was received, and the summary of proposed Housing Element programs.

(2) State Density Bonus Law (SDBL) and Draft Implementation Ordinance: Presentation by Town Attorney [7:48 p.m.]

As indicated in her February 27, 2014 memorandum, Ms. Prince explained that compliance with the SDBL is required regardless of whether a jurisdiction enacts an implementation ordinance, but enacting an ordinance would provide an opportunity to establish application requirements related to processing requests to utilize SDBL and allow the Town to take advantage of a streamlined Housing Element review.

The ordinance also would specify how compliance with SDBL would be implemented, but it would not create any additional incentives to develop affordable housing beyond those that exist in state law. Applicants must satisfy certain threshold requirements in order to take advantage of SDBL, among which are:

- A minimum development of five or more housing units, or 35 or more senior housing units
- An agreement to restrict a certain percentage of the housing units for lower-income residents (10% moderate or low income; 5% very low income)

Every year, the State updates county-specific income limits. For instance, San Mateo County's 2013 amounts show moderate income of \$123,600 for a family of four and \$98,900 for a family of two. Ms. Prince said most of those who would be eligible are working people.

If a developer qualifies for a density bonus in terms of the percentage of affordable housing units, the density bonus would be a percentage dictated by the SDBL, California Government Code Section 65915, from 5% to 35%. The lower the income level, the greater the density bonus, she said, although the rate for senior housing is a flat 20%. In response to a question, Ms. Prince explained that a developer with a senior housing project of 40 units could get eight bonus units.

Although there are no proposals at this time, Ms. Prince said that under existing zoning and Town regulations, there are four sites in Portola Valley which could meet the threshold of development of five or more housing units. Any of them would require a conditional use permit (CUP) amendment to develop housing, and none of them would allow more than one unit per acre: The El Mirador Ranch (approximately 25 units), Springridge (approximately 29 units over 229 acres), Stanford Wedge (approximately 20 units) and the Fogarty property (approximately 10 units over 240 acres). If a Williamson Act contract were to be put in place over any of these

properties, it would limit the use to agriculture, Ms. Prince explained, and thus there would be less potential for developing housing.

As an example, Ms. Prince said that if a developer were to come in with a 10-unit housing proposal for the Fogarty property that provided 10% moderate-income units, one of the 10 would have to be a moderate-income unit. That would entitle the developer to a 5% density bonus, and rounding up (per SDBL) would mean a total project of 11 units – which would still be less than one unit per acre.

According to Ms. Prince, the law dictates the number of incentives to which a developer would be entitled, up to a maximum of three incentives:

- One incentive for 10% low or moderate-income units or 5% very low
- Two incentives for 20% low or moderate-income units or 10% very low
- Three incentives for 30% low or moderate-income units or 15% very low

Ms. Prince also explained that an SDBL incentive can be:

- A relaxation in site development standards that results in an identifiable financially sufficient and actual cost reduction for the developer;
- A modification of a zoning code or design requirement; or
- Approval of mixed use.

In addition, a developer could propose an incentive, she said. There is generally a process by which the specific incentives are determined, but the choice isn't always negotiable. The implementation ordinance would require the developer to submit a pro forma showing that the requested incentive(s) offsets the cost of the affordable housing to the extent that it makes it possible. While developers can propose any incentives, Commissioners could recommend that the ordinance be structured to encourage developers to use certain incentives by pre-approving those incentives and not requiring submittal of a pro-forma to receive those incentives. This is the approach Palo Alto took when it passed its density bonus ordinance last month.

SDBL also entitles the developer to waivers, which are requests to modify a standard that would physically preclude construction of a project as designed, such as setbacks, building coverage, etc. A modification of a standard in proportion with the density bonus utilized would be considered a waiver, Ms. Prince said, so perhaps it makes sense to reduce setbacks 10% to physically make the project possible (a waiver); anything beyond that could be considered an incentive. Incentives and waivers are similar, she explained. An incentive *may* be a reduction in site development standards; a waiver *is* such a reduction. A financial incentive such as a fee credit would not be considered a waiver in this context, though, because charging or reducing a fee would not affect whether the project is physically possible.

The SDBL also specifies that a requested incentive may be denied for any of three reasons:

- It is not necessary to provide affordable housing;
- It would have a specific adverse impact on public health, safety or the physical environment or historic property, as demonstrated in an Environmental Impact Report or similar document; or
- It is illegal.

Only the last two of these reasons may be grounds for denying a waiver request.

Responding to Commissioner McKitterick, even if the Town doesn't adopt this ordinance, Ms. Prince said a developer would be entitled to the same incentives, waivers and density bonus, without doing all the homework entailed in the application that the ordinance would require. Another benefit of adoption would be establishing a clear structure of the process for both the developer and the Town.

Commissioner Hasko asked for clarification of proposed Section 18.17.050 of the ordinance. Ms. Prince said when an incentive would trigger a discretionary approval (such as a variance from a setback requirement) or an amendment to the Zoning Code or General Plan, the Town could provide the incentive with no discretionary approval or amendment. However, if the base project *without the incentive* requires any of these actions, the Town would retain the discretion to make or not make the required findings to approve the base project.

Commissioners discussed the clarity of Section 18.17.070 and the best way to ensure that the affordable units are built. Commissioner McKittrick noted that other jurisdictions refuse to issue occupancy permits for the market rate units until the developers build the affordable units. He said the affordable unit construction could be subject to a phasing plan. Vice Chair Targ said that denying occupancy permits outright until the affordable units are finished would have to be covered in the ordinance, and some developers might be able to complete a project only on a house-by-house basis. Ms. Prince said she would work on the language to address these concerns.

Susan Dworak, Alpine Road, served on the Ad Hoc Affordable Housing Committee. She said it's been her understanding that the Town doesn't need to build affordable housing to meet its state obligation; if that's the case, why do we need this ordinance? Chair Gilbert responded that the ordinance would not give developers any more than they would be entitled to without it, but with it, the Town would benefit from the streamlined Housing Element review. In response to Commissioner Von Feldt, Ms. Kristiansson clarified that the streamlined review applies to most of the Housing Element and should limit the number and type of comments from the state, but the state does review the programs.

Jon Silver, Portola Road, said that as he understands it, adopting an implementing ordinance would allow the Town to do this our way. Although he said that he does not like it when the State steps in, he said that it makes sense to take appropriate action when they do.

Chair Gilbert said the proposed ordinance would go to the Planning Commission for a public hearing on April 2, 2014, then to the Town Council, with approval planned for before the Housing Element is submitted to the State.

(1) Continued Housing Element Study Session: Review and discuss draft site inventory and outline of potential changes to housing programs [8:05 p.m.]

Chair Gilbert stated that the Commission would discuss this agenda item in three separate parts, starting with the draft site inventory, then moving to the letter with suggested best practices, and finally concluding with a discussion of the potential housing element programs.

Ms. Kristiansson presented the draft site inventory as discussed in and attached to her memorandum of February 27, 2014. She said that the inventory follows the format used in the 2009 update and was prepared with the streamlined review in mind. She said the inventory begins with a discussion of the various limitations that affect or could affect development, a section that is substantially the same as it was in 2009, and she noted that staff hopes to update the maps that show faults, seismic hazard areas, steep slopes and other physical limitations.

The draft also includes the "Inventory of Land Suitable for Residential Development in Portola Valley," which lists parcels by Assessor's Parcel numbers and shows the associated zoning and density districts, allowable density, General Plan designation, acreage, new unit capacity, infrastructure capacity and environmental constraints. This section shows the remaining vacant and largely vacant sites in Town. Ms. Kristiansson said these sites would be for market-rate, above moderate-income single-family housing, although the inventory includes the Stanford Wedge, which could also be developed under the Affiliated Housing program.

The ensuing Analysis of Suitability for Development section includes a discussion of anticipated new market-rate homes for above moderate-income households, which is projected based on current and recent rates of construction. This section also includes projections of housing for moderate-income households and below, which would be provided through three programs:

- Inclusionary Housing, which at this time includes only the Sausal Creek development (five market-rate senior units and one below market-rate (BMR) low-income unit)
- Affiliated Housing at the Priory (three low-income, four moderate-income units and four above moderate-income units)
- Second Units, fulfilling the remainder of the Town's Regional Housing Needs Assessment (RHNA) requirement; Ms. Kristiansson said the site inventory assumes that second-unit production could increase from an average of 5.3 units annually to 6.5 – a rate of about one unit each year

Chair Gilbert requested clarification of the sites marked “not used” on the table. Ms. Kristiansson explained that the table is based on 2009 information, and some of the lots have since been developed. They will be removed from the 2014 draft, but the numbers have not yet been updated.

Chair Gilbert also referred to two sets of figures in Ms. Kristiansson's memorandum (page 2). The first estimates of the number of housing units that could be provided during the upcoming Housing Element cycle (a total of 90 units), but the list that follows indicates that these programs would be expected to yield what adds up to 95 units. Chair Gilbert asked whether the discrepancy is because the first list does not include the five market-rate Sausal Creek units, and Ms. Kristiansson confirmed this.

The Site Inventory section also includes draft maps of affiliated housing sites and the parts of town where second units are allowed. Ms. Kristiansson said the second units map also shows where second units have been permitted, because that information has been requested in the past. In order to avoid any confusion, that information would likely be omitted from the final housing element that the Town will submit to the state.

Commissioner Von Feldt questioned the above moderate-income category showing there are as many as 26 vacant sites in Town for single-family homes (memorandum page 13). Ms. Kristiansson said there actually are more than 30 lots according to the site inventory. The construction rate is currently 3.2 new homes per year, she added, which is slightly down from what was projected in the 2009 Housing Element update.

Regarding the Potential Areas for Second Units map, Chair Gilbert asked whether the areas within dotted lines are deemed unsuitable for second units because they're not allowed. Ms. Kristiansson said yes, and the map will be changed to make that clear.

Ms. Dworak asked whether the maps in the agenda packet would be available online. Ms. Kristiansson said they are already online, both from the Minutes & Agendas page for the Planning Commission (in the agenda packet for tonight) and from the Building & Planning tab to the meetings list on the “Planning for Housing in Portola Valley” page. In response to follow-up questions, Ms. Dworak was advised:

- That the Fogarty property is depicted on the Exhibit 7 map (areas 72-79 and 81-82 on the far southern portion of the map), but there is no current proposal for development on the property; and
- That the state requires the Housing Element to include an inventory of sites where additional housing is possible under Town regulations, regardless of whether development has been proposed for a location.

Commissioner Von Feldt said that it's great that the Town will be able to meet its RHNA obligation with some room to spare by largely relying on programs that have worked in the past, and thus have time to develop longer-range solutions. Commissioner Hasko agreed. Vice Chair Targ, who said the SDBL presentation was very helpful in articulating the advantages of passing a density bonus ordinance, added that we've determined what we have to do in a methodical manner.

Housing Element Policy Best Practices [8:23 p.m.]

Chair Gilbert said although some of the material doesn't pertain to Portola Valley and some is already in place here, the *Housing Element Best Practices* document (dated February 21, 2014) was attached to the staff report in case it includes anything Commissioners want to highlight and discuss. The document is a joint effort of the

Housing Leadership Council of San Mateo County, the San Francisco Organizing Project/Peninsula Interfaith Action, and the Greenbelt Alliance.

Aside from what is not applicable and what has been addressed already,

Ms. Kristiansson said that the Town has already considered a number of the items listed, including second units, inclusionary housing, and state density bonus law. While the list includes many items that would not be applicable or appropriate in Portola Valley, there are some that the Town could examine in developing its longer term vision for housing. These include a housing overlay zone and adjusting site and building regulations. Chair Gilbert said that Community Land Trusts (CLTs) also might be something to pursue at some point. CLTs are ways to hold title to land that's been designated for affordable housing. Vice Chair Targ said the document is a useful catalog of available tools.

Commissioner Hasko referenced recommendations in the letter in the context of the Commission's earlier SDBL discussion. She said that although density bonuses may sound scary, they are consistent with the market-based strategies that the Ad Hoc Affordable Housing Committee favored.

Mr. Vincent asked about the purpose of the document and whether the Town would be adopting it as part of the housing element work. Chair Gilbert clarified that the best practices document would not be adopted but was provided only for information and as a comprehensive overview of various tools the Town might consider.

Ms. Dworak said she wanted to emphasize something that came up several times during Ad Hoc Affordable Housing Committee meetings and on other occasions: the importance of carefully examining any programs, because they may not be as wonderful as they may sound and because they've worked elsewhere doesn't mean they'd be successful in Portola Valley.

Potential 2014 Housing Element Programs [8:31 p.m.]

Ms. Kristiansson noted that her February 27, 2014 memorandum (page 5) lists seven potential programs for the 2014 Housing Element Update based on the discussions at and direction from the Planning Commission to date. The Planning Commission has reviewed three of these programs in depth and identified potential changes to those programs (Inclusionary Housing, Affiliated Housing, and Second Units). Three others (Shared Housing, Fair Housing, and Energy Conservation and Sustainability) were in the 2009 Housing Element and would likely carry over to 2014 with few changes, if any. The seventh program would be a new one to provide the suggested vision component: Explore Future Housing Needs and Potential Housing Programs.

She also noted that the list does not include a density bonus program, because moving ahead with the Density Bonus Ordinance would make it unnecessary to continue this program from the 2009 Element.

Vice Chair Targ drew attention to a paragraph in the staff report that references the Planning Commission's deciding ". . . that the Town should explore the possibility of allowing Affiliated Housing on commercial properties, with no more than one housing unit per parcel." He said he didn't recall agreeing to that limitation, and noting that some large properties may well be able to accommodate more than one unit. Commissioner McKitterick agreed. The Commission agreed to strike the last clause.

Commissioner Von Feldt requested a refresher on HIP Housing's Shared Housing program. Ms. Kristiansson said that HIP Housing is a nonprofit agency that provides this program to connect people who are willing to share their homes with others who are looking for a place to live and would be willing to share someone's home. In some cases, the person could also assist the homeowner with tasks such as grocery shopping. Because she "matches" do not provide housing units, they do not assist with meeting RHNA obligations. In response to Commissioner Hasko asking whether Portola Valley's relationship with HIP Housing involves anything more than publicizing its programs, Ms. Kristiansson said that publicity is the main component as far as she knows. The Town does already provide information about the program on its website, and once the Housing Element 2014 draft is complete, the Town is planning to update its housing webpages and will likely expand the information offered on Shared Housing as part of that process.

For the Second Unit program summary, Chair Gilbert said that the Commission had discussed the idea that floor area bonuses for the larger second units on 2+ acre lots might be considered if second-unit production doesn't reach the numbers anticipated.

Public comments were requested but none were offered.

Ms. Kristiansson said that in addition to the public hearing on the Density Bonus Ordinance, the full text of the programs for the Housing Element draft would come back to the Planning Commission for review at its April 2, 2014 meeting, and the demographic sections should also be ready by then. The complete draft is on track to be finished, as scheduled, in May 2014.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS [8:40 p.m.]

Chair Gilbert said that she has information about what's on the agenda for the League of California Cities' annual "Planning Commissioners Academy" conference, which will be held March 26-28, 2014, at the Marriott San Francisco Airport Waterfront Hotel in Burlingame, and she would be happy to share that information with other commissioners.

APPROVAL OF MINUTES [8:41 p.m.]

Commissioner Von Feldt moved to approve the minutes of the December 18, 2013 Planning Commission meeting, as amended. Seconded by Commissioner McKitterick, the motion carried 4-0-1 (Hasko abstained).

Commissioner McKitterick moved to approve the minutes of the January 15, 2014 Planning Commission meeting. Seconded by Commissioner Von Feldt, the motion carried 5-0.

Commissioner Von Feldt moved to approve the minutes of the February 5, 2014 Planning Commission meeting, as amended. Seconded by Commissioner McKitterick, the motion carried 5-0.

ADJOURNMENT [8:44 p.m.]

Denise Gilbert, Chair

Karen Kristiansson, Deputy Town Planner