



TOWN OF PORTOLA VALLEY STAFF REPORT

TO: Mayor and Town Council

FROM: Laura C. Russell, Planning & Building Director
Adrienne Smith, Senior Planner

DATE: March 22, 2023

RE: Adoption of a Resolution Adopting the Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP) for the proposed Portola Valley Housing and Safety Elements Update and Conforming General Plan and Zoning Amendments

RECOMMENDATION

Staff recommends that the Town Council receive a presentation from staff, ask questions, provide comments, receive public comments and adopt a resolution adopting the Initial Study/Mitigated Negative Declaration and the Mitigation, Monitoring and Reporting Program for the Housing and Safety Elements update and conforming General Plan and Zoning Code amendments.

MEETING PURPOSE

The purpose of this meeting is for Town Council to review the Initial Study/Mitigated Negative Declaration (IS/MND), Response to Comments memo and Mitigation Monitoring & Reporting Program (MMRP). A resolution has been prepared so that **the Town Council can take final action on the IS/MND and MMRP if Council chooses to.**

BACKGROUND

For general background on the CEQA process, view [CEQA FAQ](#). For additional information on the Housing Element and IS/MND adoption process, review the [Housing Element Process FAQs](#).

California Environmental Quality Act (CEQA)

CEQA generally requires state and local agencies to inform decisions makers, like the Planning Commission and Town Council, and the community about the potential environmental impacts of proposed projects, and to identify ways to avoid or mitigate those impacts, if feasible. A “project” is an activity which must receive some discretionary approval from a public agency and which may cause either a direct physical change, or a reasonably foreseeable indirect change in the

environment. The proposed Portola Valley Housing and Safety Elements Update and Conforming General Plan and Zoning Code Amendments is a defined project per CEQA. Discretionary approval means that there is an exercise of judgement or deliberation by a governing body in determining whether a project will be approved, or if a permit is issued. The Town Council is responsible for approving the IS/MND for this project; the Planning Commission is a recommending body.

To establish the appropriate level of environmental review for the project Town Staff and CEQA consultants prepared an “Initial Study” to determine if project may have a significant adverse effect. Since the initial study showed either no adverse environmental effects, or that potential environmental effects could be mitigated, a Mitigated Negative Declaration (MND) can be adopted. The IS/MND provides a programmatic review that includes broad policies but does not examine all potential site-specific impacts of individual projects because they are not known yet.

The IS/MND is not intended to serve as a recommendation of either approval or denial of the project. It provides the primary source of environmental information for the Town to consider and identify ways any potentially significant environmental impacts can be avoided or significantly reduced. All impacts identified in the IS/MND are “no impact,” “less than significant,” or “less than significant with mitigation”. These conclusions in large part are based on the existing general plan and zoning policies that guide development away from hazardous areas and regulate building construction to be subservient to the natural environment. The purpose of preparing this document is to provide decision makers with environmental information to serve as the foundation for their policy decisions. CEQA is just one input that informs the ultimate decision.

Plan Level Review vs. Project level review

“Project” is a term of art under CEQA. CEQA is only triggered if the Town is adopting a “project” as defined by CEQA. “Projects” for purposes of CEQA include both high level planning documents adopted by towns, such as general plans, as well as private development projects.

CEQA allows for a program/plan-level analysis of policy documents that contemplate a series of related actions that can be characterized as one large project, including general plans or general plan elements. Such analysis must identify the environmental impacts of adopting the plan as a whole, but it does not need to analyze individual future projects that might be adopted under the plan, especially where the details of such future projects are unknown and speculative.

This IS/MND is not a detailed environmental review of specific development projects because no site-specific development projects are proposed. Such an analysis would be speculative as the Town cannot reasonably anticipate and evaluate project-level impacts without the actual site-specific proposed development request.

Scope of Work Under CEQA

The scope of work under CEQA includes the following components:

- **Housing Element Update.** The Town of Portola Valley’s Housing Element is the component of the General Plan that addresses housing needs and opportunities for present and future residents. It provides the primary policy guidance for local decision-making related to housing. The Housing Element of the General Plan is the only General Plan Element that requires review and certification by the State of California.

- **Safety Element Update.** Adoption and implementation of related updates to the Safety Element Update.
- **Conforming General Plan Amendments.** General Plan Amendments are limited to only those that are required to ensure all elements of the General Plan are consistent:
 - New “Gateway” land use classification in the General Plan that allows affordable housing, recreation, and open space uses
 - Creation of new multi-family land use classifications allowing up to four and 20 dwelling units per acre
 - New Opt-in overlay classification to allow for up to four units on approximately three single family lots (not to exceed a total of 12 units during the new housing element cycle)
 - New mixed-use land use classification to allow for up to six dwelling units per acre as well as the uses currently permitted in the existing A-P Administrative Professional District
 - General Plan Land Use Map to be revised to include these new land use designations.
- **Zoning Amendments.** The Town proposes the creation and adoption of three new zoning districts and other revisions:
 - New multi-family district allowing up to four dwelling units per acre
 - New multi-family district allowing 20 dwelling units per acre
 - New mixed-use district allowing residential uses up to six dwelling units per acre
 - Amendments to codify the Affiliated Housing program that is currently implemented through the Housing Element
 - Zoning map to be revised to reflect these new districts.

Based on Town Council direction, Zoning Amendments will be addressed after adoption of the Housing Element and Conforming General Plan Amendments.

Draft Release and Public Comment Period:

In compliance with CEQA, a Notice of Intent to adopt the MND was provided to the public, responsible agencies, and the State Clearinghouse. A copy of the MND was distributed to public agencies and made available to the general public for a 30-day public comment period beginning Monday, October 31, 2022 and ending Tuesday, November 29, 2022. Additionally, the Notice of Intent to adopt an MND was published in the newspaper.

While the Town is only required to consider and address public comments before final action is taken, in response to public interest in in the IS/MND, the Town has prepared a more comprehensive and formal Response to Comments Memo to ensure that all environmental comments received during the comment period are addressed.

During the 30-day comment period, the Town received 47 emails/letters from individuals. The Response to Comments Memo includes a reproduction of each written comment in its entirety. The Memo includes written responses to 43 comments pertaining to the environmental analysis within

the IS/MND. While 4 comments addressing the details and merits of the project are included in the Memo, since they do not pertain to the analysis within the IS/MND, no written response is provided.

In reviewing the Response to Comments, staff saw several themes which are addressed below.

Plan Level Review vs. Project level review.

As discussed above, the California Environmental Quality Act (CEQA) allows for a program/plan-level analysis of policy documents that contemplate a series of related actions that can be characterized as one large project, including general plans or general plan elements. Such analysis must identify the environmental impacts of adopting the plan as a whole, but it does not need to analyze individual future projects that might be adopted under the plan, especially where the details of such future projects are unknown and speculative.

Future individual developments will be required to separately comply with CEQA as applicable. Many commenters noted that more site-specific analysis should be included in the environmental document. This IS/MND is not a detailed environmental review of specific development projects because no site-specific development projects are proposed. Such an analysis would be speculative as the Town cannot reasonably anticipate and evaluate project-level impacts without the actual site-specific proposed development request.

Adoption of this IS/MND is not intended to supplant the ongoing Stanford Wedge Housing Project environmental review nor to provide CEQA clearance for the Stanford Wedge project. This IS/MND, however, does incorporate and analyze the impacts of the Stanford Wedge project as one component in the cumulative impacts of the overall project discussed here. For example, the projected traffic trips generated from the Stanford Wedge project are incorporated into the IS/MND's discussion of traffic, Vehicle Miles Travelled (VMT), evacuation times, greenhouse gas emissions and air quality. However, the Stanford Wedge project EIR analyzes the more site specific impacts of driveway curb cuts, emergency vehicle access to the new subdivision, parking layout, etc.

Incorporation of Existing General Plan Mitigation Measures

All development proposed in the Town must comply with the Town's General Plan, Subdivision Ordinance and Zoning Regulations, including detailed development standards. For example, projects located on the Alpine corridor must maintain the Town's 75-foot scenic corridor requirement. In CEQA terms, this in essence means the project is "self-mitigating." As explained in the Town's Open Space Element, the Zoning Code regulations were drafted to preserve the open space ethos of the Town:

2221 The zoning, subdivision and site development ordinances have been prepared and administered to preserve and protect major open spaces in the town through a variety of provisions. These include:

- planned community zoning districts,
- slope-density combining zoning districts,
- open area zoning districts,
- special building setbacks along the Alpine Scenic Corridor and Skyline Parkway,
- planned unit development provisions permitting cluster development,
- dedication requirements for park areas,

- requirements for open space easements,
- trail and path dedication requirements,
- limitations on grading and tree removal,
- wide rights-of-way to provide open space along roads,
- required building setbacks along major town creeks, and
- setbacks and controls on planting along major roads.

Thus, as the Open Space Element concludes: “The tools are in place and need only to be administered as development projects come before the town.” The IS/MND takes into account the Town’s myriad environmentally driven development policies in its assessment that a limited number of new housing units will not have a significant environmental impact as defined in CEQA law. Where existing policies do not exist, the IS/MND has added a handful of additional mitigation measures. These new measures are contained in the Mitigation, Monitoring and Reporting Plan (MMRP) in Attachment 3.

Scope of Environmental Analysis

CEQA Guidelines, Article 10, Considerations in Preparing EIR and Negative Declarations, includes a discussion regarding the degree of specificity that should be anticipated in an environmental document. This section notes that the CEQA analysis of policy documents (e.g., Housing Elements, zoning amendments, etc.) will be less detailed than the CEQA analysis of a site-specific development project. CEQA Guidelines Section 15146, Degree of Specificity, is included below.

The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.

(a) An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy.

(b) An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.

Further, CEQA environmental review is limited to statutory criteria. Oftentimes, the Town’s own project application review is more detailed and locale-specific. For example, all projects in town must undergo some geologic review and this review takes place outside of the normal CEQA review.

Wildfire Issues

On October 10, 2022, the Office of the California Attorney General released “Best Practices for Analyzing and Mitigating Wildfire Impacts of Development Projects Under the California Environmental Quality Act” (AG Guidance). The AG Guidance is designed to help lead agencies comply with CEQA when considering whether to approve projects in wildfire-prone areas. The guidance provides “suggestions for how best to comply with CEQA when analyzing and mitigating a proposed project’s impacts on wildfire ignition risk, emergency access, and evacuation.” The AG Guidance describes guidance for analyzing impact on wildfire risk and evacuation and emergency access.

The AG Guidance does not recommend any particular quantitative threshold. To date, there is no national, state, regional or local quantitative threshold based purely on evacuation times. Given the lack of an established threshold and the variability associated with creating one, this IS/MND employs a qualitative analysis based in large part on the factors considered in the AG Guidance.

Section IV.B of the AG Guidance outlines variables that should be considered in the analysis of impact on wildfire risk related to the project characteristics. These factors designed to reduce wildfire risk include: locating housing away from ridgelines and high fire hazard areas, clustering multi-family development, maximizing fire access and using fire-resistant building materials. The AG Guidance also encourages towns to increase housing density and consolidated design and rely on higher density infill developments as much as possible, while avoiding and minimizing low-density exurban development patterns or leapfrog type developments. The sites identified in the Housing Element are located to avoid the above high wildfire risk characteristics in that they are predominantly located along developed major arterials (Alpine Road and Portola Road), are concentrated and not in isolated clusters, and are adjacent to available water supplies and infrastructure.

Existing Chapter 7A regulations and local home hardening and WFPD's defensible space regulations incorporate virtually all of the AG Guidance's recommended best practice mitigations. Section IV.C of the AG Guidance recommends an evacuation and emergency access study include evaluation of the capacity of roadways to accommodate project and community evacuation and simultaneous emergency access, assessment of the timing for evacuation, identification of alternative plans for evacuation depending upon the location and dynamics of the emergency, evaluation of the project's impacts on evacuation plans, consideration of the adequacy of emergency access, and traffic modeling to quantify travel times under various likely scenarios. The IS/MND contains an evacuation study addressing these factors.

DISCUSSION

Planning Commission Discussion and Recommendation of IS/MND

To review earlier Planning Commission discussion of the IS/MND, view the [November 16, 2022, January 24, 2023](#) meeting materials.

Based on the Planning Commission discussion at its January 24, 2023 meeting, staff made additional clarifications to the IS/MND Response to Comments Memo (see redlined language in Attachment 3):

1. Added table of contents.
2. Language has been inserted to clarify that builder's remedy is technically outside of the CEQA process.
3. Update to Master Response No. 5, Fire Maps to clarify both CalFire map and the 2008 Moritz map were analyzed. Additionally, the IS/MND incorporated the analysis conducted by Deer Creek Resources, the Town's fire expert, as well as a preliminary analysis by Flame Mapper, Woodside Fire Protection District's mapping consultant.

After review of the IS/MND and discussion of the Targ-Brothers Colleagues Memo, at its February 15, 2023 meeting, the Planning Commission recommend that the Town Council adopt the Resolution

for the IS/MND and MMRP as presented and consider the Project Design Features, through the mechanism of Council's choosing (see Attachment 7). The Commission also recommended Town Council consider the adoption of the Key Approaches to Fire Safety as presented by Fire Marshal Bullard in a manner to be chosen by Town Council.

Council Members and members of the public are encouraged to watch the February 15, 2023 [meeting recording](#) where the Commission made its recommendations to Town Council. Meeting timestamps follow:

- Presentation by Fire Marshal, followed by Commission questions – 00:16:46
- Presentation by Commissioners Targ and Brothers, followed by Commission questions – 01:25:41
- Presentation by Staff, followed by Commission questions – 02:44:59
- Public Comment – 02:51:55
- Commission Discussion and consideration of Resolution – 03:28:10

Staff Analysis

At the [March 15, 2023](#) Town Council meeting, the Council discussed the Targ-Brothers Colleagues Memo Project Design Features and whether they should be incorporated into the process. Many of the items in the Project Design Features are already underway or incorporated into other efforts. At the February 15, 2023 Planning Commission meeting, staff and CEQA legal counsel noted a concern with including the features in the MMRP as they were not standard CEQA mitigation measures and therefore could cause confusion. This is a policy issue for the Council.

The analysis below includes the Project Design Features that were identified as potential Mitigation Measures and discusses their status and potential alternative approaches for implementation. This discussion builds on the information in Attachment 8 and numbers reference column 1.

#1 Local CEQA Guidelines and Thresholds

- Town CEQA Guidelines: This work is routine, and can be accomplished by staff without significant additional resources. Staff recommends incorporating into the Post Approval Process¹, though if the Council believes this is a high priority, inclusion in the MMRP could be considered.
- Local thresholds of significance for Aesthetics; Parks and Recreation; Public Services; and Wildfires: This work is technical and resource intensive. Additional consultant resources will

¹ At its December 14, 2022 meeting, Town Council created a Council subcommittee to plan for the Post Approval Process. The subcommittee presented at the January 11, 2023 council meeting explaining the Post Approval Process as a complement to Housing Element approval, by creating a set of actions to continue public engagement and address the two primary concerns: Safety and follow-up to the Housing Element update process. During discussion of the Memo, Council agreed the proposed Post Approval Process needed further discussion and a new subcommittee of Judith Hasko and Craig Taylor was formed to work on phrasing and details within the document. At its January 25, 2023 meeting Council discussed the Post-Adoption Process further and subcommittee members Taylor and Hasko agreed they would return to Council with further process details.

be required, which may be substantial. In addition, to the extent the thresholds are inconsistent with existing general plan or municipal code policies, amendments to those documents will be required. Staff recommends additional consideration of the cost of timing of this work, then integration into the Post Approval Process if the Council thinks it is warranted.

#2 General Plan, Zoning, Design Review

- Establish review group to further ensure consistency and fidelity to the General Plan: This work requires additional consideration as to the scope. That should be led by Town Council. Implementation could fall with the General Plan Discussion Group, General Plan Amendment, or Post Approval Process.
- Establish objective design criteria: Included in the Housing Element, no further action needed. If the Council thinks the existing language in the Housing Element is unclear, it could provide additional guidance to staff.

#4 Safety

- Form a workgroup or direct a Committee to assess evacuation routes and plans, considering projected population growth: This work is underway. Evacuation Study completed and approved by Council in 2022. Addendum to Evacuation Study completed to study the Housing Element sites. Draft Safety Element Program P-86 calls for the preparation of an evacuation plan. Staff recommends that the Town Council request the EPC to continue work on this item, in coordination with the Safety Element Update. No additional action is needed.
- Assess building codes: Included in the Housing Element to be updated every three years with the regular code adoption cycle. No further action needed.

Fire Marshal's Key Approaches to Fire Safety

The Fire Marshal's February 15, 2023 presentation to the Planning Commission included Key Approaches to Fire Safety. Staff analyzed and presented the approaches in a table including the proposed approaches, responsible party, current status, and notes (See Attachment 9). Staff recommends that this table form the basis of a collaborative work plan between the Town and the Fire District and could take shape in the form of updating the Town's MOU with the Woodside Fire Protect District.

NEXT STEP

Upcoming (tentative) meeting on Draft Housing Element:

- March 29 – Town Council meeting to consider adoption of the Draft Housing Element, and Conforming General Plan Amendments

ATTACHMENTS

1. Draft Resolution Adopting the Initial Study / Mitigated Negative Declaration; and Mitigation, Monitoring, and Reporting Plan

2. [Initial Study / Mitigated Negative Declaration \(IS/MND\)](#)
3. [Response to Comments on IS/MND](#)
4. [Mitigation Monitoring Reporting Plan](#)
5. [Housing Element Draft #3 \(without Appendices\)](#)
6. [Conforming General Plan Amendments](#)
7. Planning Commission Resolution 2023-1 Recommending Adoption of IS/MND
8. Table with Staff's Analysis of Targ-Brothers Project Design Features
9. Key Approaches to Fire Safety – Table with Additional Information from Fire Marshal and Staff
10. Table of Meetings and Documents Related to the Housing Element Update