




# TOWN OF PORTOLA VALLEY

## STAFF REPORT

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**TO:** Mayor and Members of the Town Council

**FROM:** Jeremy Dennis, Town Manager  
Cara Silver, Town Attorney 

**DATE:** February 2, 2023

**RE:** Approval of the Whites' request for waiver of planning fees in the amount of \$186,890.37 to support the Willow Commons Supportive Housing project

### RECOMMENDATION

Staff recommends that the Town Council approve the Whites' request for reimbursement of planning fees in the total amount of \$186,890.37 to support the Willow Commons Supportive Housing Project. This request is made pursuant to Portola Valley Municipal Code (PVMC) Section 18.34.070 (c).

### BACKGROUND

#### General Plan Policies

The Housing Element of the General Plan encourages the Town to provide opportunities for a diverse population to live in the town. This includes people of all income levels, people with special housing needs, elderly residents and people who work in Portola Valley. The Housing Element envisions that one way to encourage these housing opportunities is through financial support, including fee waivers. The Housing Element policies relating to fee waivers include:

- Policy 2C: Allow in-lieu funds to be used to reduce town fees for affordable or mixed income housing developments, as well as for the purchase of land and the construction of below market rate units. (Section 2476, Policy 2C.)
- As possible, waive some fees, or portions of fees, for housing developments with a majority of below market rate units. (Section 2476, Policy 2D.)

- It will be difficult for the town to waive fees and deposits entirely for affordable housing projects because of the routine use of outside consultants and the reliance on the fees to cover the cost of town services provided. However, the town is prepared to use money collected as in-lieu fees for below market rate units to mitigate the constraints of fees. Also, the town has amended the town's fee ordinances to allow all or part of the fees to be waived, at the discretion of the Town Council, for projects with at least 50% of units for households with moderate incomes or below. (Section 2460d.)

### Zoning Code Policy

Pursuant to the General Plan policies, the Town adopted a fee waiver policy in its Zoning Code:

Any residential development project with ten or more units in which at least fifty percent of the dwelling units will be price-restricted to be affordable to households with incomes at moderate incomes or below, as defined by the California Department of Housing and Community Development. A development agreement shall be used to grant any fee waiver under this subsection. The development agreement shall set forth the total number of units in the development project, the number of affordable units to be included, and the level of affordability of the units, as well as the amount of fees to be waived. The development agreement shall be prepared to the satisfaction of the town attorney. The council's determination as to whether and what portion of fees to waive shall be based on the following criteria:

- 1.The mix of units by income level;
- 2.The extent to which the units are anticipated to serve populations in town with a particular need for affordable housing in the town, such as senior citizens and people who work in town;
- 3.The expected financial impact on the town of waiving fees; and
- 4.The financial feasibility of the project if some or all of the fees are not waived.

(Portola Valley Municipal Code (PVMC) Section 18.34.070 (c).)

On January 12, 2022 and December 14, 2022, the Council discussed the Whites' request for a fee waiver for the supportive housing project known as Willow Commons. The Council in general supported the request but voiced concerns about the process for determining fee waivers. The focus of the discussion was whether the inclusionary housing fund should be used to pay for the fee waiver and whether it made sense to use the fund without first formulating fund guidelines. The staff report did not include the reference to the General Plan and Zoning Code policies which directly encourage and authorize fee waivers for affordable housing projects. Accordingly, staff is once again bringing this request forward to ensure that the Council is aware of this additional local authority for granting a fee waiver, separate and apart from the process anticipated to be

included in the housing fund guidelines. As discussed below, because the Willow Commons project falls squarely under the already codified General Plan and Zoning Code policies, as discussed below, staff recommends a fee waiver.

## **DISCUSSION**

On October 4, 2021, Jim and Patty White submitted an application to construct an affordable permanent supportive housing project for adults with intellectual or developmental delays (“IDD”) to be located at 4388 Alpine Road, referred to as Willow Commons Apartments. The project consists of 11 one-bedroom apartments deed-restricted for low income qualifying residents and 2 ADUs for program managing staff to live on site. On December 13, 2021, the Architectural & Site Control Commission (ASCC) conducted a hearing and approved the project. Additional information about the project is available on the Town's website. The project was submitted under the supportive housing law (AB 2162) and density bonus law. Under the density bonus law, in addition to the requested zoning and land use concessions and waivers, the project requested financial assistance from the Town.

The Whites’ request for a fee waiver in the amount of \$186,890.37 easily qualifies under the Zoning Code provision discussed above. While the Zoning Code requires a 50% moderate income affordability restriction, the Willow Commons project provides 100% of the supportive housing units as deed restricted for lower income households. In addition, two of the units are set aside for on-site employees who are expected to qualify as moderate income households. The units will be used by a hard-to-serve vulnerable population and will forward the Town’s goals of an inclusive and welcoming community. The workforce units will go to local town employees.

Staff believes this funding request can be appropriated from either the Housing Fund or the General Fund reserves. If Council is more comfortable appropriating from the General Fund reserves until the Housing Fund guidelines are adopted, the General Fund may be reimbursed at a later time.

It is well recognized that affordable housing projects are difficult to fund, especially in Portola Valley where land and construction prices are even higher. Supportive housing projects are especially financially challenging as approximately 1/3 of the square footage must be devoted to support services which do not bring in revenue. While the Whites are personally contributing to this project, the Town’s participation will allow them to further leverage other funding sources and provide for the long term support services associated with the project. This project will also bring the first ever deed restricted housing project for persons with intellectual or development delays to Portola Valley.

Finally, the Zoning Code provision contemplates a development agreement to codify the deed restrictions. This requirement is not necessary as the applicant has already agreed to a recorded deed restriction requiring the 11 units to be lower income as a condition of receiving the supportive housing and density bonus by right approvals.

**ENVIRONMENTAL REVIEW**

The adoption of guidelines is not considered a project under the California Environmental Quality Act (CEQA).

**ATTACHMENTS**

1. Whites' Fee Waiver Request

# ATTACHMENT 1

**From:** Jim White [REDACTED]  
**Sent:** Thursday, September 29, 2022 10:35 AM  
**To:** Cara E. Silver <[ces@jsmf.com](mailto:ces@jsmf.com)>  
**Subject:** Fwd: Willow Commons Portola Valley Project Fees

Cara - The Willow Commons Project at 4399 Alpine Rd would like to request a reimbursement for the fees expended to date to enable the financial viability of the Willow Commons Permanent Supported Housing for adults with disabilities. Below are a listing of the fees paid to date and if needed we can provide the supporting documentation. Please let me know if you need any additional information. I'm happy to talk live if you want to call my mobile, feel free to call me. Jim

----- Forwarded message -----

**From:** Jason Raser [REDACTED]  
**Date:** Wed, Sep 28, 2022 at 10:54 AM  
**Subject:** Re: Willow Commons Portola Valley Project Fees  
**To:** Jim White [REDACTED]  
**Cc:** Carter Warr [REDACTED], Kevin Schwarckopf [REDACTED]

Hi Jim

As we discussed yesterday, I have updated the google doc that contains the listing of all expenses paid to Town of Portola Valley to date. I have underlying invoices/support and can add more details on the specifics of each expense if that's helpful. The google sheet is called "Willow Commons cost impacts". I have included the many checks written to the Woodside Fire Protection District since I believe those were mandated by the Town of PV.

Snapshot of the sheet below:

**Fees and other costs (Asked Jason and Carter/Kevin):**

8,230.00	8/10/2021	Town of PV	
100.00	8/18/2021	Woodside Fire Protection District	
17,724.00	9/22/2021	Town of PV	
100.00	9/22/2021	Woodside Fire Protection District	
5,355.00	3/9/2022	Town of PV	
225.00	4/18/2022	Woodside Fire Protection District	
225.00	4/18/2022	Woodside Fire Protection District	
225.00	4/18/2022	Woodside Fire Protection District	
225.00	4/18/2022	Woodside Fire Protection District	
225.00	4/18/2022	Woodside Fire Protection District	
225.00	4/18/2022	Woodside Fire Protection District	
143,248.97	4/18/2022	Town of PV	
12,332.40	9/7/2022	Town of PV	
188,440.37			

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