



# TOWN OF PORTOLA VALLEY STAFF REPORT

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**TO:** Mayor and Town Council

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

**DATE:** March 15, 2023

**RE:** Study Session on Housing Element Draft #3, Conforming General Plan Amendments, Associated Initial Study/Mitigated Negative Declaration, and Recommendations from the Planning Commission

## **RECOMMENDATION**

Staff recommends that Town Council receive a presentation from staff, ask questions, receive public comment, and provide feedback to assist in preparing for public hearings to adopt the Housing Element and associated actions.

## **MEETING PURPOSE**

The purpose of this meeting is for Town Council to review the Housing Element Draft #3 and the recommendations of the Planning Commission. **No final decisions will be made at this meeting.** Links to the conforming General Plan amendments and the Initial Study/Mitigated Negative Declaration are included for reference but will not be the primary topics of discussion.

## **BACKGROUND**

This section serves as a brief reminder of the Town's obligations under Housing Element law and a reminder of key events, public meetings and actions that have taken place to date. Extensive additional information is available at [www.portolavalley.net/housing](http://www.portolavalley.net/housing). Please see Attachment 11 for a detailed table of all Housing Element-related public meetings and topics that have occurred beginning in 2021.

## **The Town's Housing Obligation**

The Housing Element is part of Portola Valley's General Plan and identifies policies and programs to meet the housing needs of the Town's current and future residents. The Town's

Regional Housing Needs Allocation (RHNA) is broken down by income category. Portola Valley's income specific RHNA is:

Income Level	Number of Units
Very Low Income (<50% of Area Median Income)	73
Low Income (80% of Area Median Income)	42
Moderate Income (80-120% of Area Median Income)	39
Above Moderate Income (>120% of Area Median Income)	99
<b>Total</b>	<b>253</b>

Pursuant to Government Code Section 65583, local governments are required to include the below items as components within their Housing Elements, and subsequent updates thereto.

1. **Housing Needs Assessment:** Examine demographic, employment and housing trends and conditions and identify existing and projected housing needs of the community, with attention paid to special housing needs (e.g., large families, persons with disabilities).
2. **Evaluation of Past Performance:** Review the prior Housing Element to measure progress in implementing policies and programs.
3. **Housing Sites Inventory:** Identify locations of available sites for housing development or redevelopment to demonstrate there is enough land zoned for housing to meet future need at all income levels.
4. **Community Engagement:** Implement a robust community engagement program that includes reaching out to individuals and families at all economic levels of the community plus historically underrepresented groups.
5. **Constraints Analysis:** Analyze and recommend remedies for existing and potential governmental and nongovernmental barriers to housing development.
6. **Policies and Programs:** Establish policies and programs to be carried out during the 2023-2031 planning period to fulfill the identified housing needs.
7. **Affirmatively Furthering Fair Housing (AFFH):** Analyze and address significant disparities in housing needs and access to opportunity.

### Scope of Work Under CEQA

State law require local jurisdictions to: (1) Update the Housing Element of their General Plans every eight years to adequately plan for the regional housing needs (2) Update their Safety Element upon each revision of the Housing Element and (3) Periodically revise their General Plans. The California Environmental Quality Act (CEQA) generally requires state and local agencies to inform decisions makers, like the 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. 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. These updates would ensure the Town complies with current State law and implements policies intended to minimize the negative impacts and risks of natural and human-made hazards such as fires, floods, droughts, earthquakes, landslides, and climate change.
- **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. They include the creation of a new “Gateway” land use classification in the General Plan that allows affordable housing, recreation, and open space uses. The General Plan would also be amended to include the creation of new multi-family land use classifications allowing up to four and 20 dwelling units per acre, an 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), and a 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. The General Plan Land Use Map would be revised to include these new land use designations.
- **Zoning Amendments.** The Town proposes the creation and adoption of three new zoning districts including, 1) a new multi-family district allowing up to four dwelling units per acre; 2) a new multi-family district allowing 20 dwelling units per acre; and 3) a mixed-use district allowing residential uses up to six dwelling units per acre. It would also include zoning amendments to codify the Affiliated Housing program that is currently implemented through the Housing Element. The zoning map would also be revised to reflect these new districts. Based on Town Council feedback on January 25, 2023, the Zoning Amendments will be discussed at upcoming Planning Commission meetings after adoption of the Housing Element and Conforming General Plan Amendments.

With the guidance of its environmental consultants, the Town concluded that an Initial Study/Mitigated Negative Declaration (IS/MND) is an appropriate level of review under CEQA. 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”.

Unlike an Environmental Impact Report (EIR), CEQA does not require the Town to respond in writing to comments submitted on an MND during public review. However, the Town must

consider the comments before approving a project. The Town prepared a Response to Comments memo, which responds to all comments except those that raise non-environmental issues.

The Response to Comments Memo includes:

- Short description of the environmental review process
- Summary of the comment letters received on the IS/MND
- Master Responses prepared to respond to multiple comments on the same topic
- Discussion presenting the comments that were received on the IS/MND and responses to comments on the environmental analysis
- Presentation of comment letters that address project merits, but do not include questions or comments of the environmental analysis within the IS/MND
- Text revisions to the IS/MND in response to the comments received and/or to amplify or clarify material in the IS/MND

Ultimately, the Town Council will review and adopt the MND and a Mitigation Monitoring & Reporting Program (MMRP), which is a matrix describing the mitigation measures, responsibility, and timing of implementation. An adoption is an official position taken by the Town Council indicating that the MND has complied with CEQA for the identified project. It also indicates the MND is adequate and provides sufficient detail to adopt updates to the Housing and Safety Element and amendments to the General Plan and Municipal Code. See discussion section below for further detail on the Planning Commission's study of the IS/MND.

### **Draft Housing Element Review Progress**

In June 2022, the Town released the Public Review Draft Housing Element. It was made available online at [www.portolavalley.net/housingelement](http://www.portolavalley.net/housingelement), distributed to the community through the Town's website, eNotification (over 450 members), PV Forum, social media, and direct email to the Town's committee members, businesses, and institutions. Town committees were invited to discuss the Housing Element. Public comments were received from June 8<sup>th</sup> to July 13<sup>th</sup> and forwarded to the Town Council for review.

After Town Council review on July 13, 2022 and final revisions at the direction of a Council Subcommittee, the [Initial HCD Draft Housing Element](#) was sent to the State for review. After completion of the 90-day review period, the Town received the official [HCD Comment Letter](#) on November 9<sup>th</sup>. Since then, staff have been incorporating changes to the Housing Element and CEQA-required IS/MND based on HCD comments and review by the Ad Hoc Housing element Committee and Planning Commission.

At its [January 25, 2023 meeting](#) Town Council agreed to a revised Housing Element adoption goal From January 31, 2023 to the end of March 2023. Council also determined that the zoning amendments will be considered separately and adoption by Town Council is anticipated by mid-2023.

### **Wildfire Safety Concerns**

Wildfire safety concerns have remained an undercurrent throughout the Housing Element update process, particularly as it relates to the housing site selection process. WFPD was consulted in the site selection process at multiple stages; however, Planning Commissioners and members of the public asked for additional participation by the Fire Marshal in the Housing Element adoption meetings. In response, Fire Marshal Don Bullard and Chief Rob Lindner attended the February 15, 2023 Planning Commission meeting where Fire Marshal Bullard and Director Russell gave a joint presentation. Fire Marshal Bullard and Director Russell acknowledged that the review of the Housing and Safety Elements IS/MND brought forward areas of agreement, some differing perspectives, and opportunities for further collaboration.

Fire Marshal Bullard explained that he does not perceive the WFPD's role to comment on whether an area of Town should be developed, but rather to focus on the codes that will apply if development occurs in fire prone areas. Fire Marshal Bullard emphasized "Key Approaches to Fire Safety" as two slides in his presentation. These items were well received by the Planning Commission. Ultimately, the Planning Commission adopted Resolution 2023-1 recommending the Town Council adopt the IS/MND and further recommending that the Town Council consider adopting the Key Approaches to Fire Safety.

### **Planning Commission Housing Element Review**

The Planning commission met eight times to discuss the Housing Element, IS/MND, and associated actions. A timeline of Planning Commission discussion follows:

- [October 19, 2022](#) – Zoning Code Amendments
- [November 2, 2022](#) – Zoning Code Amendments and Opt-In Program
- [November 16, 2022](#) – Comments on the Draft Initial Study/Mitigated Negative Declaration (IS/MND) for Housing and Safety Elements and conforming General Plan and Zoning Code amendments
- [November 30, 2022](#) – General Plan conforming amendments and Zoning Code amendments, Opt-In Program, Housing Element Programs, Density Bonus Law
- [December 7, 2022](#) – General Plan conforming amendments, Zoning Code amendments
- [January 24, 2023](#) – IS/MND and Response to Comments Memo

In its capacity as a recommending body, the Planning Commission took official action to adopt two separate resolutions: on [February 15, 2023](#) the Planning Commission unanimously passed Resolution 2023-1 recommending adoption of the IS/MND; and on [March 6, 2023](#) Planning Commission unanimously passed Resolution 2023-2 recommending approval of the Housing Element, with changes, as well as the Conforming General Plan Amendments. Further discussion of these actions follows below.

## **DISCUSSION**

[Housing Element Draft #3](#) has been updated broadly, however the most substantive changes are found in Section 6, Adequate Sites and Section 7, Goals Policies and Programs (see the cover memo accompanying the draft for guidance on how to review the changes). All revisions are shown in track changes for ease of review. Key changes to the Housing Element are summarized below.

### **Changes to Draft Housing Element – Section 6, Adequate Sites**

The housing inventory contains several sites on Alpine Road. These sites were chosen in large part because of their moderate to low fire severity classification and their accessibility to a major evacuation route. Through the outreach process, local Nathhorst residents voiced concerns about the increased density at 4370 Alpine and the owners of 4394 recently expressed a desire for additional development flexibility. While it is not possible to address all relayed concerns, the proposals for sites in the Nathhorst area represent a comprehensive set of compromises that address the maximum number of resident concerns possible.

- Housing Element Draft #3 includes the background of the 4370 Alpine Road site and the proposed development standards. This approach includes additional limitations on the site to address comments from neighbors.
- Draft #3 Housing Element includes a detailed new section for 4394 Alpine Road. The new language includes background, a proposed Supportive Housing Overlay, and development standards to govern the site. The objective is to provide flexibility for the property owner to develop a successful supportive housing development, if they choose to do so in the future.

### **Changes to Draft Housing Element – Opt-In Program**

The Opt-In Program is a unique pilot program created in response to a community desire for a portion of the Town's planned housing sites to be distributed throughout the community. Over the course of its November 2 and 30, 2022 discussions of the Opt-In Program, the Planning Commission provided staff with comprehensive feedback on the initial program outline to strengthen the program's implementation. Feedback included a desire for a non-traditional 'call for projects' program initiation, a requirement that the program be distinguished from the Town's SB9 ordinance, a need for objective safety and design criteria and a discretionary but streamlined application review process. The program is detailed in Housing Element Section 6 and is included in Section 7 as Program 1-3.

#### *Timing*

The program includes two key timelines: The development of objective design standards by June 2024 and the initiation of the program via call for projects in September 2024. If after the initial call for project period, 12 units are not entitled, a subsequent call for projects will

be issued and so on until 12 units are reached. Once 12 units are reached, the program will close for the remainder of the 2023-2031 planning period.

### *Application and Review Processes*

The program will be initiated by a call for projects for a fixed period. Eligible sites must be one acre or greater and propose four dwelling units per acre and a maximum of four dwelling units per lot. Applicants need only submit conceptual plans. The call for projects can emphasize things Planning Commission has previously discussed, such as a range of units, affordability levels, superior design, and community benefit. Once the application period has ended, the Planning Commission will begin screening applications for compliance with key safety criteria:

- Accessible to two ways of ingress and egress
- Located on a slope less than 30%
- Outside of a very high fire hazard severity zone
- Outside of a fault zone
- Outside of areas identified with unstable soils or at risk of landslide or liquefaction

If an application meets the minimum safety criteria it will advance to the Architectural and Site Control Commission (ASCC) for design review. The Planning Commission and ASCC reviews would be limited to one meeting before each body to ensure a streamlined process. As stated above, comprehensive objective design standards will be established by June 2024. The Planning Commission has previously stated that such standards should address the following topics: Size/affordability of units, subdivision of land restrictions, and best practices from SB9 legislation.

### **Planning Commission Discussion and Recommendations**

Council Members and members of the public are encouraged to watch the two Planning Commission meetings where the Commission made formal recommendations to Town Council:

- **February 15, 2023** – Regarding the IS/MND, Fire Marshal presentation, and discussion of Targ/Brothers Colleagues Memo. [Recording of Commission Meeting](#) and timestamps:
  - 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
- **March 6, 2023** – Regarding the Housing Element and Conforming General Plan Amendments. [Recording of Commission Meeting](#) and *approximate* timestamps:

- Questions from Commission- 00:45:00
- Public Comment- 02:06:00
- Commission Discussion and consideration of Resolution- 03:00:00

*Commissioners Targ and Brothers Colleagues Memo*

Commissioners Brothers and Targ prepared a Colleagues Memo in response to the IS/MND where they outlined a number of proposed “Project Design Features” to further address the potential environmental and/or community impacts of the Housing and Safety Elements update. (The complete memo is included as Attachment 8.) Several Project Design Features were proposed as IS/MND mitigation measures and others proposed as Housing Element Programs. After detailed discussion, the Planning Commission agreed to recommend adoption of the Project Design Features (except the last item related to finances), in the method of Town Council’s choosing. To assist the Council in considering the Project Design Features, staff has prepared a table with the items from the Targ/Brothers memo, the current status, and potential implementation approach. The table is included as Attachment 9.

*Fire Marshal Presentation and Key Approaches to Fire Safety*

As mentioned above, the Fire Marshal’s February 15<sup>th</sup> presentation was well received by the Planning Commission. In particular, the Commission focused on two slides, titled “Key Approaches to Fire Safety” in their discussion. These items are not all related to the Housing Element and associated work; however, the Commission identified ties to the Housing Element, Safety Element and IS/MND and recommended that the Council consider approval of the list. To assist the Town Council in considering the list of items, staff met with the Fire Marshal Don Bullard to provide additional detail. Attachment 10 includes a table with the proposed policy, responsible party, current status, and notes. Staff recommends that this table form the basis of a collaborative work plan between the Town and the Fire District. For example, if the Council supports this approach, the Fire Marshal could attend a future Council meeting with the Planning & Building Director to discuss the priorities and implementation of the plan.

*Additional Comments on the Housing Element*

The Commission asked a number of questions of staff and suggested a number of improvements to Housing Element Draft #3. Staff will provide a summary of the proposed changes in the presentation at the meeting on March 15<sup>th</sup>. Generally speaking, the topics of discussion were related to the Gateway land use classification and “Sunrise” for Ford Park and Open Space, Ladera Church development standards, proposals for 4370 Alpine, and the Opt-In Program.

**Conforming General Plan Amendments**

Throughout the update process staff have limited General Plan amendments solely to addressing any inconsistencies brought about by new policies in the Housing Element. Accordingly, removing or modifying language is only proposed if it directly excludes or prevents the uses proposed in the Housing Element. The Planning Commission concurred



with this “light touch” approach. Since public circulation of the proposed General Plan conforming amendments, staff has not made any significant changes except to update the density range and Supportive Housing Overlay related to 4394 Alpine. The Planning Commission recommended approval of the Conforming General Plan Amendments in Resolution 2023-2.

### **Self-Certification of Housing Element**

To avoid application of the Builder’s Remedy, many cities have been “self-certifying” their housing elements. Under this process, the Council adopts a resolution certifying that its Housing Element complies with all aspects of Housing Element law. To provide maximum protection for the Town, the staff will prepare the self-certification findings and present them to the Council on March 29. However, use of this “self-certification” process before submitting the final Housing Element to HCD has not been legally tested and is only being included as a potential legal argument to use in the event the Town receives a Builder’s Remedy application before HCD certifies the Housing Element.

### **NEXT STEPS**

Upcoming Town Council meetings on Draft Housing Element and Initial Study/Mitigated Negative Declaration (IS/MND):

- Wednesday, March 22 – Consideration of adoption of IS/MND
- Wednesday, March 29 – Consideration of adoption of the Housing Element and Conforming General Plan Amendments

After Town Council review, staff will update the Draft Housing Element based on the comments received and submit it to HCD for their review.

### **ATTACHMENTS**

1. [Housing Element Draft #3 \(without Appendices\)](#)
2. [Conforming General Plan Amendments](#)
3. [Initial Study / Mitigated Negative Declaration \(IS/MND\)](#)
4. [Response to Comments on IS/MND](#)
5. [Mitigation Monitoring Reporting Plan](#)
6. Planning Commission Resolution 2023-1 Recommending Adoption of IS/MND
7. Planning Commission Resolution 2012-2 Recommending Adoption of Housing Element and Conforming General Plan Amendments
8. Targ and Brothers Colleagues Memo to the Planning Commission with Project Design Features
9. Table with Staff’s Analysis of Targ-Brothers Project Design Features
10. Key Approaches to Fire Safety – Table with Additional Information from Fire Marshal and Staff
11. Table of Meetings and Documents Related to the Housing Element Update