

PLANNING COMMISSION REGULAR MEETING, TOWN OF PORTOLA VALLEY, APRIL 5, 2017, SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chair Gilbert called the Planning Commission regular meeting to order at 7:00 p.m. Planning Director Pedro called the roll.

Present: Commissioners Goulden, Hasko, and Von Feldt; Vice Chair Targ; Chair Gilbert

Absent: None.

Staff Present: Debbie Pedro, Planning Director
Cynthia Richardson, Planner
Arly Cassidy, Associate Planner

ORAL COMMUNICATIONS

None.

Chair Gilbert moved Item (c) under New Business to be heard first.

NEW BUSINESS

- (c) Final Review of Proposed Lot Merger, File #LLA-02-2017, 4 & 5 Blue Oaks Court, Koontz Revocable Trust, APN #s 080-241-020 & 030

Associate Planner Cassidy presented the staff report detailing the proposed lot merger of the properties located at 4 and 5 Blue Oaks Court. She said the ASCC reviewed the proposed merger on March 27, 2017, and recommended Planning Commission approval.

Chair Gilbert invited questions for staff or the applicant. Hearing none, Chair Gilbert invited public comment. Hearing none, Chair Gilbert brought the item back to the Commission for discussion.

Vice Chair Targ was supportive of the proposal.

Commissioner Von Feldt was supportive of the proposal and that the project would be under the allowed maximum floor area and impervious surface.

Commissioner Hasko was supportive of the proposal.

Vice Chair Targ moved to find the project exempt from CEQA pursuant to Section 15303A of the CEQA guidelines. Seconded by Commissioner Hasko; the motion carried 5-0.

Commissioner Von Feldt moved to approve the proposed lot merger subject to the attached resolution and conditions of approval. Seconded by Commissioner Goulden; the motion carried 5-0.

- (a) Final Review of Proposed Lot Merger. File #LLA-01-2016, 120 and 130 Golden Hills Drive. Qi Lin Family LLC. APN #s 077-211-140 & 130.

Planner Richardson presented the staff report detailing the proposed lot merger of the properties located at 120 and 130 Golden Hills Drive. She said the ASCC reviewed the proposed merger on March 13, 2017, and recommended approval.

Chair Gilbert invited comments by the applicant. Hearing none, Chair Gilbert called for questions for the applicant or staff.

Commissioner Von Feldt said ASCC Commissioner Breen had commented regarding the lawn under the blue oaks. She asked if the applicant had considered removing that lawn. The applicant said there is an upper and lower lawn, and the lower lawn has been removed where the blue oaks are located. Hearing no further questions, Chair Gilbert invited comments from the public. Hearing none, Chair Gilbert brought the item back to the Commission for discussion.

Commissioner Hasko moved to find the project exempt from CEQA pursuant to Section 15303A of the CEQA guidelines. Seconded by Commissioner Goulden; the motion carried 5-0.

Commissioner Von Feldt moved to approve the lot merger subject to the attached resolution and conditions of approval. Seconded by Commissioner Goulden; the motion carried 5-0.

- (b) Conditional Use Permit, Variance, Architectural Review and Site Development Permit for Willow Grove, LLC (Hallett Store) 844 Portola Road (formerly 846 Portola Road). File #37-2015 and X7D-178.

Planner Richardson presented the staff report detailing the plans for the conditional use permit, two variance requests, and the architectural and site development review for 844 Portola Road (formerly 846 Portola Road, Hallett Store).

Chair Gilbert invited the applicant to comment. The applicant, John Hansen, pointed out the outline of a previous building in the setback area that is substantially larger than the deck they are proposing. He said the deck is a positive amenity with a very low profile.

Chair Gilbert called for questions for staff or the applicant.

Commissioner Goulden asked why there are multiple variances. Planning Director Pedro said there is a separate variance request for each of two items – one for the deck and one for the building. Chair Gilbert said there is an option to approve one or the other.

Commissioner Goulden asked for clarification regarding the deck height and railing. The applicant said the deck is approximately 12 to 18 inches from the ground. Planning Director Pedro said the ASCC is requiring that if a deck variance is approved there is to be no railing on the deck.

Vice Chair Targ asked what prompted the change in environmental review determination from a Mitigated Negative Declaration (MND) to a Categorical Exemption. Planning Director Pedro said there would be no change in the proposed use of the property, and the project will have very little environmental impact therefore the Town Attorney advised that an MND was not needed.

Vice Chair Targ said he previously didn't have an issue with the deck variance because the impact of a patio to the shallow roots of the oak trees could be the basis for hardship. He said there has been no arborist report, however, to follow up on that claim. The applicant said there is an arborist report that covers the entire site, and it reports no issues with any part of the proposal. Vice Chair Targ said Mr. Warr had indicated the deck was being raised up off the ground in order to protect the roots of the oak tree. The applicant said there would be a very shallow foundation base for that deck in that area. Planning Director Pedro said the applicant did not submit an arborist report regarding a patio's impact on the oak tree because a patio was never proposed. She said if the applicant had provided an arborist report stating that an at-grade patio would affect the tree roots, staff's response would have been to consider reducing the size of the patio. She said staff would not have suggested a variance to allow a

deck to encroach in the front setback as an alternative. Vice Chair Targ asked regarding staff's reason for recommending denial of the deck. Planning Director Pedro said the deck feature is design-driven and is not a required element of the use of the site. She said it was difficult to make the hardship finding because it's not a necessary element of the project.

Chair Gilbert asked the applicant if the arborist was satisfied that the gravel parking lot that comes right up to the dripline of the redwoods would not affect the roots of those trees. The applicant said he believed so and that the arborist had no problem with the plan as outlined. Chair Gilbert said if the arborist is okay with the placement of the gravel, she would assume a patio, which is 10 to 15 feet away from the oak tree, would also be acceptable.

Commissioner Hasko asked if ASCC Chair Ross was accurate with his comment that the deck was particularly suited because it was similar to other nearby structures within the setback and created consistency. Planner Richardson said as far as she knows there are no other decks encroaching within the front setback on adjacent properties. Chair Gilbert said that today, no building along Portola Road would be able to construct a deck in the setback without a variance.

Commissioner Hasko said ASCC Commissioner Breen supported the project and the deck because it was a better solution for preserving the tree. Commissioner Hasko said, since there was no arborist report, she assumes ASCC Commissioner Breen was commenting based on her general knowledge. She asked if it was typical practice to require an arborist report for support of this type of determination. Planning Director Pedro said if an applicant is proposing a patio that may affect a tree, an arborist report would be required. In this case, she said the applicant did not propose a patio and did not provide an arborist report.

Chair Gilbert said the staff report indicates each of the offices cannot exceed 1,500 square feet, but one of the office measures 1,541. Planner Richardson said the ordinance outlines areas for storage, mechanical purposes, etc., that are excluded from the 1,500 square feet. She said that staff verified it is in compliance with the ordinance.

Chair Gilbert asked if there was risk that the back wall would need to be replaced, and, if so, if that would tip the percentages to over the 50 percent threshold for nonconforming structures. The applicant said the foundation at the back wall is very stable. Chair Gilbert said if the repair goes over the 50 percent, it will put the entire project at risk. Planning Director Pedro said the applicant has studied the foundation and the current condition of the building, and has provided a construction estimate confirming that the repair work is below 50%.

Chair Gilbert said there was mention in the ASCC report that the plan was to restore the cement walkway to the mailbox, which would place concrete directly on top of the oak tree roots. She said when she visited the site, the view from the deck was the street. She asked why the applicant did not position the deck behind the building, where it would have a view of the redwood grove and be within the building envelope. The applicant said the deck in front has a beautiful view of the open space across the street and the hills.

With no further questions, Chair Gilbert invited public comment. Hearing none, Chair Gilbert brought the item back to the Commission for discussion.

Chair Gilbert said one of the tenants, TSG, said their business includes Portola Valley, Woodside, and Los Altos, and they intend to secure more than 50 percent of their business based upon long-term relationships with residences and businesses from the Town of Portola Valley and its area of influence. She asked the applicant regarding the extent of the business for Pacific States Capital. John Hansen said they own property in Portola Valley and continue to operate and develop here, and have a real

estate brokerage that will also be operated here. He said their clients include Portola Valley, Menlo Park, and Redwood City. He said they hope to do more business in Portola Valley and said their office in Portola Valley is their only physical presence on the Peninsula.

Commissioner Hasko asked regarding the basis for Finding #5 for the deck variance. Planning Director Pedro said because this is the Portola Road Scenic Corridor, having a structure there would have some visual impact, which is counter to the intent of the ordinance to provide an open, unimproved corridor.

Commissioner Goulden said he looks at the General Plan as being the guidance for the spirit of the Code. He said it is apparent that special allowances were historically made for this property. He said the low deck is not allowed by Code, but a patio is; however, he does not think the intent was that a patio is good and a deck is bad. He said the Code isn't going to catch everything in these older properties and special accommodations may be necessary.

Chair Gilbert asked staff to comment on why decks and patios are considered differently. Planning Director Pedro said patios at grade level are visually less intrusive than raised decks. She said there are certain types of structures that are allowed in setbacks, such as paths and driveways. She said decks are considered structures, and this definition is enforced for every project and is not unique to this property.

Commissioner Von Feldt said the ability to grant the variance hinges on the oak tree being in close enough proximity to where the proposed improvement is to take place. She said absent an arborist report saying that a concrete pad will hurt the oak, or that there is no other appropriate solution (such as flagstone, gravel, pavers, etc.), and because there is concrete actually being poured much closer to the oak than where a patio would be placed, she has a difficult time finding that this is a special circumstance compared to other projects in the area. She said the redwood tree is unusual, but the proximity to the oak is not.

Commissioner Hasko agreed with Commissioner Von Feldt and said there is an inherent contradiction with pouring concrete right next to the oak tree and then asking for special consideration of a deck that will be placed further from the oak tree. She would encourage rethinking the location of the concrete path for the health of the tree. She said she would want to prioritize protecting the tree if that is a concern. She said, however, this is not a large structure and see how it would be detrimental to the tree. She said the issue is in finding that there is a special circumstance with regard to protecting the tree.

Commissioner Goulden asked if there would be any issue with the deck if it weren't in the setback. Planning Director Pedro said if the deck was within the building envelope there would not be an issue.

Commissioner Von Feldt expressed concern that granting this variance could be precedent setting. If the Commission finds that the proximity of an oak tree is considered a hardship for granting setback variances, it will set a precedent for similar projects near oak trees in the future.

Chair Gilbert said if the oak tree wasn't there, the applicant would still need a variance for the deck.

Vice Chair Targ said he would not have a basis to establish hardship to allow the deck if the oak tree wasn't there. He said he was disappointed there was no arborist report even though the Commission made clear that granting a variance based on the oak tree was an issue. He said the ASCC are knowledgeable and have expertise about the nature of oak trees so he could rely on their recommendation. He said a motion might be made conditioned upon supplemental documentation by an appropriately qualified arborist identifying that a patio would be harmful to the root system of the oak

tree in a way that the deck would not. He said the arborist report would establish the basis for granting a variance in this case as opposed to granting a variance to some other project for a deck or structure in the Scenic Corridor.

Planning Director Pedro said the proposed deck wraps around the addition, and a portion of it is actually quite far from the oak tree. She said if the Commission is concerned about protecting the oak tree, a 44-square inch landing is all that is required to serve the structure. Planning Director Pedro said the applicant has not presented alternatives other than a deck or patio. She suggested there are other ways to provide usable outdoor spaces such as wood chips or gravel.

Chair Gilbert said she was liaison to the ASCC during their discussions of this application. She said the ASCC was very uncomfortable discussing the variances and did not go through the findings but rather, commented more generally, and they were split in their opinions. She said she has problems with Findings 1, 2, and 3, because this is design driven. A deck is not required, it was not preexisting, and there are alternatives. She said the proposal includes running a concrete path next to the oak. The prior building had a concrete patio in front of it, which was just slightly further from the tree. The corner of the proposed deck is 15 feet outside the dripline of the oak. She said the addition in the back is very close to tree driplines. The gravel path goes up to the dripline of the redwoods. She said she is very concerned about allowing design-driven variances, particularly when there are acceptable alternatives.

Commissioner Von Feldt agreed with Chair Gilbert that she cannot make Findings 1, 2, or 3.

Vice Chair Targ said he does not have a problem with design-driven variances provided it is good design, and the ASCC's decision was that it is good design. He said provided it is a good design, as determined by the ASCC, and the Planning Commission can make the finding of an identified hardship or special circumstance, he could support the variance. He said, however, there is an open question regarding the hardship or special circumstance that he would like resolved.

Chair Gilbert said when she referred to design-driven, she meant there are alternate designs that would not require the variance. Vice Chair Targ said alternative designs can always be done but would result in a diminished project. He said he is relying on the ASCC's approval of the design and wants to see something in writing from an appropriately credentialed arborist supporting the hardship.

Planning Director Pedro said if the applicant had submitted an arborist report that says the proposed patio would harm trees on the property, staff would require that the patio be reduced in size or redesigned to mitigate the harm done to the trees rather than look to grant a variance to accommodate the structure.

Vice Chair Targ said he appreciated Planning Director Pedro's comments. He said in this case, the ASCC has made a decision supporting the deck based on aesthetics. He said the ASCC could have made a decision to reduce or propose an alternative to the deck, but they didn't do that.

Planning Director Pedro said if the Commission votes to approve the deck variance, they should articulate the six required findings.

Commissioner Von Feldt said she would like to talk to the arborist.

Chair Gilbert asked if the Commission could give a conditional approval of a variance.

Planning Director Pedro said if the Commission would like additional information before deciding on the deck variance, the applicant could return with the variance request when they have obtained an arborist report.

Vice Chair Targ said the motion could be continued to the next meeting so the applicant can return with the arborist report.

Commissioner Von Feldt said it will be an uphill battle for her to make the findings to approve this variance. She said if the arborist says this is the only solution, then she could support it, but she does not think this deck is the only solution to protect this tree.

The applicant said it is not their intent to jeopardize the health of the trees on the site. He said he was not present at the previous meeting. He said if he had been aware there was concern about that oak tree, he would have brought documentation by the arborist to this meeting.

Chair Gilbert said she is skeptical since the arborist is already okay with the gravel parking lot in the back being very close to the other trees. She said she will be interested to see what the arborist says in terms of what does affect the roots of the oak tree.

Commissioner Goulden said the arborist should also address the concrete walkway. Chair Gilbert said they want to get all the information they need to make a decision. She suggested the arborist attend the meeting so the Commission can ask questions.

Commissioner Hasko moved to continue the setback variance for the deck to a future Planning Commission meeting. Seconded by Commissioner Goulden; the motion carried 5-0.

Commissioner Hasko moved to find the project exempt from CEQA pursuant to Section 15303A of the CEQA guidelines. Seconded by Commissioner Goulden; the motion carried 5-0.

Commissioner Goulden moved to approve the Conditional Use Permit as amended. Seconded by Commissioner Hasko; the motion carried 5-0.

Commissioner Von Feldt moved to approve the setback variance to relocate the floor area as amended and according to the findings as called out in the staff report. Seconded by Vice Chair Targ; the motion carried 5-0.

Commissioner Hasko moved to approve the site development permit conditions of approval. Seconded by Commission Von Feldt; the motion carried 5-0.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

Commissioner Von Feldt said the Conservation Committee's Native Garden Tour occurred this past weekend, and it was quite successful, with approximately 75 to 100 visitors. She said there were eight Town properties on the tour.

Vice Chair Targ said he appreciated the staff and Town Manager hosting the joint ASCC/Planning Commission training session and the follow-up meetings.

APPROVAL OF MINUTES: March 15, 2017.

Commissioner Hasko moved to approve the minutes of the March 15, 2017, meeting, as amended. Seconded by Vice Chair Targ, the motion carried 5-0.

ADJOURNMENT [8:29 p.m.]