

REGULAR PLANNING COMMISSION MEETING. TOWN OF PORTOLA VALLEY, APRIL 5, 2006, TOWN CENTER, HISTORIC SCHOOLHOUSE, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chairman McIntosh called the meeting to order at 8:03 p.m. Ms. Lambert called the roll:

Present: Commissioners McKitterick, Wengert and Zaffaroni, and Chairman McIntosh  
Absent: Commissioner Elkind  
Council Liaison: Maryann Derwin  
Staff Present: George Mader, Town Planner  
Leslie Lambert, Planning Manager

ORAL COMMUNICATIONS: None.

REGULAR AGENDA

(1) Discussion (Continued) of Resolution 500-1974

Town Planner Mader distributed and reviewed the draft revision (dated 4/5/06) of Resolution 500 and amending resolutions. He noted that Ted Sayre and Sandy Sloan had looked at the revisions.

Referring to the "Deviations from Policies for Buildings" section (p. 5), Commissioner Wengert suggested adding a statement indicating that anything contrary to the provisions of Table 1 would be a deviation. Under "Deviations Allowed," #7 (p. 8), she said there should be some language indicating that if there was significant site disturbance, grading impacts, drainage issues, etc., engineered solutions might not be allowed. Town Planner Mader said that had not been included in deviation #7 because it was part of the criteria (p. 5), which applied to all deviations. He suggested that some of the original language about site disturbance, etc., be added to page 5 rather than adding language to some of the deviations allowed and not to others.

Referring to the "Criteria for Approval of Deviations" section, criterion #1 (p. 5), Commissioner Zaffaroni said she was not sure if state-of-the-art structural/geotechnical standards were high enough standards. She suggested "higher" state-of-the-art standards. Town Planner Mader said the intent was state of the art for landslide terrain. Commissioner Zaffaroni suggested adding "...based on the underlying geology" to criterion #1. Referring to criterion #6, she said it should be clear that it applied only to reconstruction situations.

Responding to Commissioner Wengert, Town Planner Mader said he felt all of the scenarios discussed by neighbors during previous meetings had been addressed in the revised resolution. He had considered a catch-all exception, but criteria would have to be established for that as well. If a problem arose, the resolution could be modified. Commissioner Zaffaroni noted that everything that was covered specifically in the prior material was included in the revision. Responding to Commissioner Zaffaroni, Ms. Lambert confirmed that normal noticing was to properties within 300 feet.

Referring to the "Deviations Allowed" section, #5 (p. 7), Commissioner Zaffaroni suggested adding a requirement that any building on unstable land that was extensively damaged by land movement be reconstructed only if feasible on stable soil/bedrock. While that might not always be feasible or warranted, she felt in this situation it was important. In the Town policies that had existed for over 30 years, no rebuilding had been allowed under these circumstances. If people really wanted to increase safety, the Town should move them in that direction. Town Planner Mader noted that criteria #1 and #8 (p. 5) required state-of-the-art standards and an increase in the overall safety of the building. He said "founded on bedrock if feasible" could be added to deviation #5 (p. 7). Commissioner Zaffaroni said the Planning Commission would need to come up with criteria or a variance if it was not feasible. There needed to be an analysis to ensure that what was proposed was the safest possible and not a risk to the occupants or adjacent

properties. She noted that this situation did not happen often. It might be best to individualize the treatment of the various scenarios. Town Planner Mader said the scenarios were highly site dependent. The criteria would need to be looked at and rigorously applied. With respect to impacts on other properties, he said that was set forth in the "Intent" section but could also be referenced in deviation #5 (p. 7).

Responding to Chairman McIntosh, Town Planner Mader said the Town Geologist usually specified what information was needed. He might determine more work needed to be done. He was very demanding. Normally, the two geologists would reach agreement when they had the same fundamental information. When the information wasn't the same, problems arose. If the geologists didn't agree on a building permit application, it could be appealed to the Town Council; that had not happened. Responding to Commissioner Wengert, Ms. Lambert said the process was just starting for two lots on Santa Maria that were damaged during El Nino. She described the damage that had occurred to the properties.

On Commissioner Zaffaroni's comment about requiring a higher level of review/analysis for deviation #5, Town Planner Mader said he felt the provisions were pretty strong. Commissioner Zaffaroni said when reconstruction was involved, this was an opportunity for people do to the safest possible thing. Town Planner Mader said that might not be safe enough if there was a concern that it could still move. He added that if a large landslide occurred on unstable land, a property owner might have difficulty trying to finance the project.

Responding to Commissioner Wengert, Town Planner Mader said additions on unstable land would be included in deviation #8 (p. 8), which applied to deviations #1 through #6. Referring to deviation #3 (p. 7), Commissioner Zaffaroni suggested removing "or added to" since it was covered in the overriding provision.

Commissioner McKitterick said he had not seen any evidence from anyone that there was any danger for human life posed by the types of landslides in Town. The changes to Resolution 500 were based on threats to property and not people. With respect to going to bedrock, he understood that was feasible only to a certain distance and might depend on the type of material that was between the building and the bedrock. He assumed that going 40' through deep landslide was probably not something an engineer could sign off on. There were other factors that might give the Town Geologist concern even if someone was able to get to bedrock.

Commissioner McKitterick said some of the criteria wouldn't be applicable unless it was a rebuild, and others might be applicable only to expansion. Using state-of-the-art structural/geotechnical standards might not apply if foundation work was not involved. Responding, Town Planner Mader said that was addressed in the second sentence of the paragraph introducing the criteria section. The intent was that judgment was involved by the approving authority.

Responding to Commissioner McKitterick, Town Planner Mader said criterion #5 was intended to address fire safety of the structure. Responding to Commissioner McKitterick, he confirmed that if someone had an unstable foundation, it could not be expanded. If the new addition was on stable ground, it could take up the residential floor area permitted on the parcel. Improvements to the existing structure were addressed in deviation #6.

Chairman McIntosh asked for public comment.

Responding to Jean Isaacson, Santa Maria Ave., Town Planner Mader confirmed that alterations did not include additions. Responding to Ms. Isaacson, he reviewed deviation #7. If a building could be founded on stabilized material, you could build out to the limits of the zoning ordinance. Commissioner McKitterick added that with an addition, the current structure would be looked at in order to increase the safety based on the deviation criteria, which included drainage, fire safety, foundation improvement, etc. Responding to Ms. Isaacson, Commissioner Zaffaroni said she felt state of the art needed to be clarified. Most people did not know what state of the art meant. Town Planner Mader suggested asking the Town Geologist whether he thought the language should be modified. Commissioner Zaffaroni reiterated that it should be linked to the

underlying geology. Town Planner Mader noted that there were new techniques all of the time. As these were tried, they became the state of the art, which is what people should strive to achieve. It was a changing field.

Jeff Milo, Trinity Lane, wanted to know in what situations people wouldn't be allowed an addition or a reconstruction after damage. Commissioner McKitterick said one example was if the building could not be stabilized without measures that went beyond what the Town would allow. Commissioner Zaffaroni said each situation had to be treated individually. She felt it would be rare for someone not to be allowed to do anything. People should be moved in the direction of having the best possible and safest solution. The treatment would have to be individualized to see what kind of optimal fix could be used to make it safe. If there was imminent threat to the public, common law addressed that. Improvements were totally different, and the criteria for deviations were articulated in the draft.

Responding to Bruce Willard, Russell, Town Planner Mader said the Town's map was based on aerial photography and field survey work. The Town allowed people to apply for map modification. The Town Geologist looked at the information, and the map was modified if appropriate. It was stated clearly that the maps were not perfect instruments, but they were better than having nothing; they were pretty close to being very accurate. Responding to Mark Dahm, Tynan Way, he said an applicant would be required to provide enough subsurface information to prove that a building could be founded correctly. The map did not need to be changed. While piers might be used to extend into bedrock, the property was still fundamentally unstable.

Responding to Chris Berka, Santa Maria, Town Planner Mader said deviation #8 provided for increases in floor areas on unstable land. You could make an addition up to 25% of the floor area of a building on unstable land, but you had to adhere to the criteria to make it as safe as possible. Additions on stable land were covered in deviation #6. Responding to Commissioner McKitterick, he said if the addition was on bedrock, the floor area would be controlled by the zoning ordinance provisions (deviation #7).

Responding to Jeff Milo, Town Planner Mader said deviation #8 addressed increases in floor area (i.e., additions) and was overriding. After discussion, Commissioner Wengert suggested adding a definition of "addition" and tying each of the deviations listed to the definitions of repair/alterations, reconstruction and additions. Town Planner Mader said he would try to clarify the definitions for "alternations" and "additions."

Commissioner Zaffaroni said she was not comfortable with staff being able to approve deviation #7. If someone was going to be dramatically increasing the floor area of their home, she thought the Planning Commission should have the approval. Town Planner Mader said he had recommended staff approval because it was more a technical decision. Commissioner McKitterick said he was comfortable with staff approval. It would be going to the ASCC, and if there was a lot of earth movement, it would come to the Planning Commission. Commissioner Wengert agreed with Commissioner Zaffaroni.

A resident suggested consolidating all the deviations into items #7 and #8. Commissioner McKitterick said he also thought it could be more consolidated. Responding, Town Planner Mader said it had been drafted to address the situations identified. The criteria had been included to provide as much direction as possible because judgment was involved. If it didn't work, it could be modified after gaining some experience. It was also easier to modify a resolution than an ordinance. Chairman McIntosh said he was comfortable with the way it was laid out. A resident agreed, noting that another reason for breaking it out was because of the different approval requirements.

Ms. Isaacson said she was still confused about the 50% rule for reconstruction. Additionally, she thought the major categories should be when damage had happened and when it hadn't. She suggested some of the residents put together an outline and e-mail suggestions to the Town Planner.

Commissioners thanked Town Planner Mader for his efforts. Town Planner Mader said he felt the Commission had come a long way to address some of the residents' concerns. While residents couldn't do

anything they wanted, they could do a lot of things if they were done right. He said he would incorporate Commissioners' comments into the next version.

(2) Discussion (Continued) of Basements

Town Planner Mader reviewed the staff report of 4/5/06 and rationale for control of basement size. The next step would be to send the finalized rationale along with the background and recommendations for limiting the size of basements to the ASCC for their review and comment.

Referring to the staff report, Commissioner Zaffaroni suggested re-ordering the list to have the most persuasive/strongest policy reasons stated first. She thought #7 and #8 should be #1 and #2. In #7 she suggested "impacts on residential areas and the Town from...spillage of dirt on streets, and traffic hazards." She said people were very concerned about traffic and found construction traffic particularly annoying. Referring to the rationale list, item #8, she suggested "Construction of basements increases...impacts on neighbors including noise, dust, traffic and..." She described a house under construction for six years due to complications with the basement. Chairman McIntosh described increased construction time due to basements.

Town Planner Mader noted that at the last meeting, Commissioners indicated they wanted to list long-term repercussions first, and the short-term second; they had been put in that order. Chairman McIntosh suggested labeling the statements short- and long-term impacts, and starting with short-term impacts.

Commissioner Zaffaroni said she thought old #3 should remain #3. In terms of #2 and #9, which dealt with energy consumption, she felt some language should be added that energy consumption was contrary to the Town's sustainable building goals. She thought #9 should remain #9. She thought old #1 should become #4, old #6 should be new #5, and old #2 should be new #6.

Chairman McIntosh wanted to start with short-term impacts and list 1, 2, 3 and then long-term 1, 2 3.

Commissioner Wengert said she thought old #5 could be combined with #4. She did not think "...need for additional domestic help..." was politically correct. She suggested deleting #4 and rewording #5 to read "Large basements can add substantially to...amount of activity on the site, ~~and a need for grading and removal of native vegetation, to accommodate the parking of~~ and additional parking for more vehicles for owners, guest and service vehicles leading to more traffic on local streets.

After discussion, Commissioners agreed old #9 could be deleted and to lead with short-term impacts. In old #2, Chairman McIntosh suggested "Large basements result in ~~substantial~~ increased long-term energy consumption..." In old #5, he suggested deleting the word "can" and adding "construction" before "activity." Commissioner Wengert noted that item #5 was a long-term impact.

Chairman McIntosh said the ASCC dealt with basement activity more than the Planning Commission. He suggested sending the rationale and recommendations for limiting the size of basements to the ASCC, including the table showing a 15% and 20% limit, and asking for comment. Commissioners agreed.

(3) Noise Ordinance Subcommittee

Ms. Lambert reviewed her memo of 3/28/06 and asked for a volunteer for a subcommittee that would be reviewing the current Noise Ordinance. She said there was a lot of uncertainty in the community about it. Commissioner Zaffaroni volunteered noting that she was concerned about the increased generator noise. There seemed to be more and more outages, and she felt the Town needed to be pro-active on this issue because people were starting to work on their own solutions. The Town needed to ensure that generators were insulated/muffled, etc. Ms. Lambert said Ms. Howard was looking into the outage problem. She noted that there was a generator policy that had been put in place 2 years ago, and an outline for the website had been prepared. Commissioners discussed construction/tree work that was allowed on weekends.

(4) Significant Tree Ordinance and Blue Oaks

Ms. Lambert reviewed her memo of 3/27/06, noting that the Conservation Committee wanted the Town to look into amending the Significant Tree Ordinance as it related to Blue Oaks. After discussion, Commissioners agreed to agendaize the issue for discussion with the Conservation Committee at the April 19 or May 3 meeting.

APPROVAL OF MINUTES

Commissioner McKitterick and Town Planner Mader submitted changes to the minutes of the March 15, 2006, meeting. By motion and second, the minutes were approved as amended by a vote of 4-0.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS: None.

ADJOURNMENT: 10:06 p.m.

---

Chip McIntosh, Chair  
Planning Commission

---

Leslie Lambert  
Planning Manager