

PLANNING COMMISSION REGULAR MEETING, TOWN OF PORTOLA VALLEY, APRIL 4, 2018, SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Vice Chair Goulden called the Planning Commission regular meeting to order at 7:00 p.m. Interim Planning Director Cassidy called the roll.

Present: Commissioners Gilbert and Taylor; Vice Chair Goulden; Chair Targ (arrived late)

Absent: Commissioner Hasko

Council Liaison: Mayor John Richards

Staff Present: Arly Cassidy, Interim Planning Director and Cynthia Richardson, Consultant Planner

Vice Chair Goulden moved Agenda Item 6, the Alpine Hills Tennis & Swimming Club Annual Report, to the top of the Agenda.

ORAL COMMUNICATIONS

None.

5. Alpine Hills Tennis & Swimming Club Annual Report

Consultant Planner Richardson presented the club's annual report. She said last year the Alpine Hills Tennis & Swimming Club applied for and received a Conditional Use Permit Amendment for a new clubhouse, renovation of the Roadhouse, modification to hours and locations of delivery, and an added paved parking lot in the back of the property, off of Los Trancos Road. She explained that their Conditional Use Permit called for an annual review regarding the status of the membership. She said staff has not received any comments or complaints from neighbors. She said that because the club membership is below the allowed maximum, staff does not believe the Planning Commission needs to call for a public hearing. Eric Quaid was also present to answer any questions.

Commissioner Gilbert asked if the modifications to the delivery schedules would be delayed until after the construction was completed. Mr. Quaid said right now all of the deliveries will be in the front because the rear parking lot will be under construction. He said they are currently in the staging phase, and they estimate it will take 90 days to complete the rear parking lot, at which time all deliveries will be received at the rear of the property and within the allowed hours. He said they estimated 15 months for the entire project to be completed.

The Commissioners requested that in the future the club's annual report is included in the agenda packet.

Mr. Quaid suggested that when the Conditional Use Permit is amended in the future, the membership maximum should be clarified to say no more than 550 families or 700 memberships to avoid confusion.

NEW BUSINESS

1. Proposed Amendments to the Outdoor Lighting Ordinance and Lighting Design Guidelines

Interim Planning Director Cassidy presented the proposed changes to the Portola Valley Municipal Code and Design Guidelines regarding Outdoor Lighting and requested the Planning Commission approve a resolution recommending their approval to the Town Council, as detailed in the staff report.

She also presented a demonstration of various light bulbs to the Commission. She explained the measurements of wattage, lumens, and Kelvins.

Chair Targ asked how the watts to lumens conversion table will be used. Interim Planning Director Cassidy said the table was provided for reference to the Commissioners and would not be a part of the ordinance. She said the goal is to use lumens as the metric for brightness measurement.

Vice Chair Goulden asked about the Planning Commission's role regarding this issue. Interim Planning Director Cassidy said there is no specific task assigned to the Planning Commission in the development of this ordinance. She said, however, any questions or comments by the Commissioners will add value.

Commissioner Gilbert asked if enforcement was primarily complaint-based. Interim Planning Director Cassidy said all code compliance issues are complaint driven. She said there are some code sections, such as this one, that are more difficult to enforce. She pointed out that most people do try to comply with the ordinances, and there is a lot of respect for the dark skies in Portola Valley.

Vice Chair Goulden said he has been to homes that were almost dangerous because of the lack of lighting, and he was initially concerned the new ordinance would make that even worse. He said he was pleased to see that safety was a top concern. He was supportive of the ASCC's recommendation.

Chair Targ asked how the ordinance modifications would allow a homeowner to create a more secure, light-rich environment. Interim Planning Director Cassidy said she would not use the term "light-rich," but would definitely use "more secure." She said the general goal of the ordinance is to better lay out the Town's goal of using light when it's really needed for safety, navigation, and enjoyment, allowing residents to enjoy their properties, while still respecting the Town's commitment to dark skies, and also not infringing on other people's use of their properties. She said the ordinance calls out the new technologies to allow people to better illuminate their properties when needed, while ensuring the lights are off when not needed.

Chair Targ asked if the Town has experienced diminution in dark skies in Portola Valley based on lighting within Portola Valley or if it was more generally due to ambient lighting from the surrounding region. Interim Planning Director Cassidy said she doesn't have data regarding measurable ambient light in Portola Valley increasing; however, most people agree anecdotally that the dark skies have diminished over time. She said the Town's commitment to dark skies will continue to be best felt in the darkest areas, such as Windy Hill. She said there is no way to control Bay Area smog, which will continue to reflect man-made light, and said there will likely continue to be a loss of visible starlight.

Chair Targ said he was liaison to the ASCC when this issue was being discussed. He said he was impressed by the talent, knowledge, and expertise represented on the ASCC and supported their recommendation.

Commissioner Taylor said he is concerned about the lack of will to enforce code violations. He said the way the ordinance reads, after someone receives ASCC approval and has completed construction, it would be legal to install many 1,100-lumen lights on a property as long as they were in dark-sky shades. He said there are restrictions in the guidelines, but they are not enforceable, and there is no will to enforce it. He said the easiest way to install a motion sensor light is to buy one from Home Depot, screw it into the side of a wall that points directly out and triggers, which is an anathema to everything stated in the ordinance, yet the violation will not be enforced. He suggested there be some kind of notice system from the Town for code violators. Interim Planning Director Cassidy said when a complaint is received, it is logged. She said Town practice is to contact and notify the offender that a complaint has been received. She said the majority of the Town's code enforcement cases are

resolved through a phone call and most people are apologetic and fix the problem. If there is no response or the offender seems uninterested in complying, she said a letter would be issued. She said the problem is that the Town needs to document the offense, and if it occurs after hours it is difficult for staff to respond on-site at the time the offense is occurring. Commissioner Taylor said the motion lights are particularly an issue in the higher density areas, or areas with smaller lots and steeper slopes. Interim Planning Director Cassidy said staff often follows up with issues courtesy notices upon receipt of complaints. She said Town staff encourage people to be friendly with their neighbors and have conversations if there is an issue. She agreed that it is difficult to know exactly how to enforce and how far down the path the Town wants to go enforcing lighting restrictions – such as a light that is 5 lumens above the maximum allowed. Commissioner Taylor said his primary concern is the motion lights that almost always point out to the street.

Chair Targ said it is a valid point about how to enforce the ordinance. He invited Commissioner Taylor to work with Town staff to make a recommendation to be brought back to the Commission for discussion.

Chair Targ invited questions from the public. Hearing none, Chair Targ closed the public hearing and brought the item back to the Commission for discussion.

Vice Chair Goulden said the enforcement issue is a general one and does not apply to this ordinance only. He would not be supportive of holding up this ordinance in order to address the more general enforcement issue.

Chair Targ said this ordinance as proposed does not address issues of enforcement. He suggested a listening or education session to address the important but separate issue of code enforcement.

Commissioner Taylor suggested there be some measure of whether compliance with the lighting ordinance is getting better or worse, which will better determine the level of importance of code enforcement.

Vice Chair Goulden moved to approve the Resolution of the Planning Commission of the Town of Portola Valley Recommending Approval of an Ordinance Amending Title 18 [Zoning] of the Portola Valley Municipal Code. Seconded by Commissioner Taylor; the motion carried 4-0.

Interim Planning Director Cassidy asked if the Planning Commission wanted to discuss enforcement or measurements of lighting in immediately future meetings. Chair Targ suggested Commissioner Taylor work with staff to make a recommendation for an upcoming meeting regarding code compliance enforcement. Commissioner Taylor agreed.

2. Proposed Amendments to the Second Unit Ordinance

Interim Planning Director Cassidy presented the background regarding the changes to the State ADU Ordinance and the proposed changes to the Portola Valley Municipal Code necessary to comply with the State requirements regarding the Second Unit Ordinance. Staff recommended approval of the proposed amendments to the Town Council, as detailed in the staff report.

Commissioner Taylor asked if the setbacks were for conforming or nonconforming structures. He asked if, for example, an ADU could be added to the top of a garage that had been sitting on a property line for 50 years. Interim Planning Director Cassidy said the State law is not explicit on this, and there are sections where the word “legal” is used and other sections where it is not. She said her interpretation is that it would probably be allowed on a legal non-conforming structure but would not be allowed on an illegal structure.

Commissioner Gilbert said a legal non-conforming structure could not be made more non-conforming. Interim Planning Director Cassidy agreed and said she would defer to the Town Attorney to provide clarification of the State law requirements.

Commissioner Gilbert asked if someone had a legal garage that was converted to an ADU or a portion of an ADU, they could expand the footprint up to the property line into the setback. Interim Planning Director Cassidy said that was correct, per State law. She said that in reviewing a proposal for an ADU, staff would encourage the honoring of that setback, but could not legally require it. She said the State will likely continue to issue updates because of the lack of clarity in the State's ordinance.

In response to Commissioner Taylor's question, Interim Planning Director Cassidy explained that the State's Ordinance allows the Town to place limitations such as requiring design review, parking, and limiting zones where ADUs can be built. She said if the Town removes their ordinance, none of those Town-specified limitations would be allowed.

Chair Targ asked if the language being used in the Town's ordinance was taken directly from the State. Interim Planning Director Cassidy said it is not a direct copy. She said the update executed last year was heavily vetted by the Town Attorney. She said this update has been reviewed by the Town Attorney, but there has not been a side by side comparison. She said she believes the changes in the State Code have been captured effectively in the proposed ordinance.

Chair Targ invited public comment. Hearing none, Chair Targ brought the item back to the Commission for discussion.

Chair Targ said it is highly desirable to comply with State law so the Town does not lose the flexibility it has now. He expressed concern that the Town Attorney has not done a side-by-side comparison to assure compliance. He asked the other Commissioners if they want to see a side-by-side to assure conformance or if they would address the issues as they arise.

Vice Chair Goulden was satisfied with dealing with issues as they arise and to move forward with this ordinance as proposed.

Commissioner Taylor was satisfied with the ordinance as proposed as long as something already non-conforming could not be made more non-conforming. He said if an architect or homeowner insisted because State law allowed it, the ordinance should come back to the Planning Commission for discussion.

Commissioner Gilbert suggested "or to a portion of a second unit" should be added to Section B(2)(i). Interim Planning Director Cassidy agreed and said it should be added in order to comply with the State Code.

Commissioner Gilbert suggested adding to Section B(3)(e) "no parking requirement shall apply." Interim Planning Director Cassidy agreed.

Commissioner Gilbert moved to approve the proposed changes to the Portola Valley Municipal Code regarding the Second Unit Ordinance with the two additional changes: adding "or a portion of a second unit" to Section B(2)(i) and adding "no parking requirement shall apply" to Section B(3)(e). Seconded by Commissioner Taylor; the motion carried 4-0.

3. Proposed Amendments to the Yards Ordinance

Interim Planning Director Cassidy presented the background and proposed changes to the Portola Valley Municipal Code regarding the Yards Ordinance. The Commission was asked to review the resolution and recommend approval to the Town Council, as detailed in the staff report.

Vice Chair Goulden asked regarding a general ratio between the front and rear setback measurements. Interim Planning Director Cassidy said there is not a ratio, and the measurements change by zone. She said in the larger districts, the front setback is much larger than the rear setback, but in smaller districts the front and rear setbacks tend to be more equal. She said the front setback is always larger in scenic corridors.

Chair Targ asked how this issue came about. Interim Planning Director Cassidy said it is not a common complaint; however, a homeowner brought to staff's attention that the ordinance presented an undue burden for homeowners with flag or panhandle shaped lots. Chair Targ asked if this could be handled with a variance. Interim Planning Director Cassidy said a variance relies on a finding of a true uniqueness. She said there are approximately 50 flag lots in the main portion of Town so they are not unique, and the Code should be changed for the benefit of all of them.

In response to Commissioner Taylor's question, Interim Planning Director Cassidy said when a lot is situated on a corner, the property owner can decide which side is the front. When that property abuts a street, the front is where the driveway touches the street. She said the determination gets more complex with irregular shapes.

Chair Targ invited public comment. Hearing none, he brought the item back to the Commission for discussion.

Commissioner Gilbert said she was supportive of the ordinance, acknowledging there may be some confusion and complexity for certain lots.

Chair Targ said he agreed with the point but is not comfortable without actually looking at a parcel map. He said the proposed ordinance has the potential to significantly impact neighbors. He said before he would feel comfortable changing the ordinance, he would want to know how people have dealt with the existing ordinance thus far, what it might look like to change it, and potentially noticing residents who would be affected by the change.

Commissioner Gilbert asked if the homeowner raising the issue was asking in general or if they were planning a construction project that would be affected if the Commission delayed the decision. Interim Planning Director Cassidy said she was unaware of any proposed project.

Chair Targ said there is a virtue in normalizing the code in the absence of any other issue, and it also provides some time to become better educated.

Commissioner Taylor said he would be more comfortable after looking at all of the lots. He said he is less comfortable with noticing all the neighbors. He said it seems arbitrary that the front setback gave the person adjacent to the property owner more privilege just because it happens that that lot faced the street. Chair Targ said he understands why it feels arbitrary, but said that people have been living with that since 1965, and he wants to make sure they are completely aware of what they are inviting by changing it. He said people may have a rapid acceleration or deceleration when they find out their house is closer to their neighbor's house than they thought.

In response to Commissioner Taylor's question, Interim Planning Director Cassidy said the front setback for properties on the scenic corridor is up to 75 feet. She said the most common front setback is 50 feet, and the rear setback is 20 feet.

Commissioner Gilbert said where that would come into play is if the person on the flag lot now wants to build a new house, and the residents of the lot in front now have a house much closer to them.

Commissioner Taylor said he understands that, but the idea of noticing all neighbors of all the flag lots seems a step too far.

Chair Targ said he thought raising the visibility of the issue was appropriate. Town Council Liaison Richards pointed out that any proposed project would come before the ASCC which is a further buffer. He pointed out that the setback figures were guidelines and not absolutes.

Chair Targ said he was not prepared to vote in favor of this without additional information and education about the issue.

Interim Planning Director Cassidy shared some examples of different odd-shaped flag lot properties.

Commissioner Gilbert asked if the ordinance could say something like “at the discretion of the ASCC,” for example, to take into account individual circumstances. Interim Planning Director Cassidy asked about proposed projects that were within the setback but were not required to go through the ASCC. Commissioner Gilbert said it could be a requirement to go before the ASCC. Town Council Liaison Richards said if it was an ADU, it would be an administrative decision.

Commissioner Gilbert said if the proposed ordinance was applied and someone had topographical limitations, they could ask for a variance arguing that if the setback was applied, they would not be able to build. Interim Planning Director Cassidy said they would not need to apply for a variance because the updated ordinance completely deletes the Section 18.52.110 regarding exception for a parcel not abutting on street. She said she knows of no cases that have been brought to the Planning Commission applying for that exception.

Commissioner Taylor suggested the exception clause was sufficient. He said the ambiguities could be dealt with as they came along rather than creating a new ordinance and having to deal with unknown ambiguities. He said he appreciated the goodwill in trying to make the ordinances simple and clear. He said in this case, however, there was not much to be gained by making the change.

Interim Planning Director Cassidy said staff could change how they discuss setbacks. She said currently setbacks are presented as firm requirements that would need variances to make exceptions. She said there are many projects that would not normally come before the Planning Commission, and this would add an additional body of review, which makes the process more arduous.

In response to Town Council Liaison Richards’s question, Interim Planning Director Cassidy said the ASCC approved the proposed ordinance and thought it was a simple and straightforward fix.

Commissioner Taylor said he understood the concern about making it a more arduous process, but he liked that the exception process required an open hearing and that the neighbor could come and explain their objection. He pointed out that this would only happen in very few instances. Interim Planning Director Cassidy said that for the fence ordinance and staff-level approval of ADUs, staff notices immediately adjacent neighbors. She said it could be added to the ordinance that building within the changed setback area triggers noticing to immediate neighbors, even if no public hearing is required.

Commissioner Gilbert was supportive of keeping the ordinance as is and pointing out the exception option to the homeowner who brought the issue to staff.

Commissioner Taylor was supportive of staff explaining that there are some rare exceptions that could be applied to setback requirements and then leave it to the homeowner to figure out what they want to do from there.

Vice Chair Goulden was supportive of not changing the ordinance. His concern is that by changing it, the potential is there for unnecessary and unforeseen problems.

Commissioner Taylor moved to deny this amended ordinance and suggested that staff makes clear that setbacks are subject to exceptions. Seconded by Vice Chair Goulden; the motion carried 4-0.

Commissioner Taylor expressed appreciation to Interim Planning Director Cassidy for the efforts to normalize the ordinances and said the Commission does not want to discourage that process.

4. Annual Housing Element Progress Report for 2017

This item has been continued to the next regular Planning Commission meeting.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

5. Alpine Hills Tennis & Swimming Club Annual Report

This item was moved to the top of the Agenda.

6. News Digest: Planning Issues of the Day

Interim Planning Director Cassidy shared articles of interest with the Commissioners regarding parking, pedestrian risk from vehicular impact, and teenage driver statistics.

APPROVAL OF MINUTES:

7. Planning Commission Meeting of February 7, 2018

Vice Chair Goulden moved to approve the minutes of the February 7, 2018, meeting, as amended. Seconded by Commissioner Taylor, the motion carried 4-0.

8. Planning Commission Meeting of February 21, 2018

Commissioner Taylor moved to approve the minutes of the February 21, 2018, meeting, subject to Commissioner Hasko's additional comments. Seconded by Chair Targ, the motion carried 2-0, with Vice Chair Goulden and Commissioner Gilbert abstaining.

ADJOURNMENT [9:00 p.m.]