

PLANNING COMMISSION MEETING, TOWN OF PORTOLA VALLEY, JANUARY 21, 2009,  
SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chair McKitterick called the meeting to order at 8:00 p.m. Ms. Lambert called the roll:

Present: Commissioners Gilbert, McIntosh, Von Feldt and Zaffaroni, and Chair McKitterick  
Absent: None  
Staff Present: George Mader, Town Planner  
Steve Toben, Town Council Liaison  
Leslie Lambert, Planning Manager

ORAL COMMUNICATIONS: None

REGULAR AGENDA

(1) Public Hearing: Consideration of Amendment to the Noise Element of the General Plan

Town Planner Mader reviewed the staff report of 1/14/09 on the Noise Element and the recommended changes to Goal 1, Policy 4 set forth in the 1/21/09 memo. Referring to Goal 1, Policy 3, he said if an applicant had to do a noise study, it would cost \$1,500-\$3,000 depending on the project. Responding to Commissioner Zaffaroni, he said the protocols for a noise study were in the CA Building Code.

Referring to Goal 1, modified Policy 4 (memo of 1/21/09), Town Planner Mader confirmed for Chair McKitterick that if someone wanted to put in a grocery store that would create noise that exceeded levels in Table 3, a study would be required. Commissioner Zaffaroni questioned what the difference was between this policy and Goal 3 (p. 12). Town Planner Mader said modified Policy 4 was similar to Goal 3. But, the new Policy 5 spoke to noise sensitive land uses that were proposed in areas exposed to existing exterior non-transportation noise levels; the developer of that project would have to make a noise analysis. That was not covered under Goal 3. Modified Policy 4 could be deleted because it was covered under Goal 3, but new Policy 5 was not. Responding to Commissioner Von Feldt, he confirmed that single-family projects were not included under Goal 3 as indicated in the note. Goal 1, new Policy 5 included single-family residences.

Town Planner Mader said he broke out Goal 1, Policy 4 and Policy 5 because it wasn't clear which one was the applicant—the person building something causing the noise or the person receiving the noise. As originally written, it could be both. He thought it was confusing, which is why he made two statements. He agreed that modified Policy 4 was covered by Goal 3. Responding to Commissioner Zaffaroni, he said if you were developing the house, you were the applicant. If you were going to be subject to excessive noise, you had to take that into account. If you were developing a piece of property as a commercial use, you also had to take that into account. The applicant could be either.

Responding to Commissioner Gilbert, Town Planner Mader said modified Policy 4 and new Policy 5 talked to noise sensitive land uses that either existed or were proposed. In modified Policy 4, if you owned a house on Nathorst and Roberts Market was going in, Roberts would be the new noise. If that exceeded the levels of Table 3, then an acoustical analysis needed to be done by Roberts. In new Policy 5, where the noise sensitive land use was proposed in areas where existing non-transportation noise exceeded performance levels, the applicant for that land use (e.g., a new residence going in next to Roberts) would have to incorporate noise mitigation within the residence or on the property. He reiterated that modified Policy 4 was covered under Goal 3.

Responding to Commissioner Zaffaroni, Town Planner Mader said the standards in Goal 3 were different than what was in Goal 1, modified Policy 4. Goal 3, Policy 1 was more stringent and broke it down into two levels. Responding to Commissioner Zaffaroni, he said  $L_{dn}$  was the measurement over a certain time period. It could relate to traffic or other noise. Figure 2 was referenced in Goal 3 for the definition of

“normally acceptable.” Goal 3, Policy 2 dealt with non-transportation noise. Responding to Commissioner Gilbert, he confirmed that Goal 3, Policy 1 was not limited to transportation noise. Responding to Commissioner Zaffaroni, he said  $L_{dn}$  was not limited to noise from traffic. Responding to Commissioner Gilbert, he said “normally acceptable” levels for non-transportation noise were shown on Table 3 as  $L_{eq}$ .

Responding to Commissioner Zaffaroni, Town Planner Mader said Goal 3, Policy 1 applied to new noise-generating projects that exceeded the criteria shown and did not include single-family residential projects or construction activities. Policy 2 related to the land use receiving the noise. Policy 1 was not limited to the land receiving the noise. Responding to Commissioner Von Feldt, he said Policy 1 referred to a different standard than Policy 2. In Policy 1, “noise sensitive uses” was the use receiving the noise, and it was judged against the ambient noise level. The other standard included maximums. You could have an ambient noise level that was low and be more restrictive based on the criteria in Policy 1. The intent was to protect people in the noise environment they were in.

Chair McKitterick opened the public hearing, and there were no comments.

Town Planner Mader verified with Commissioners that Goal 1, Policy 4 in the original document would be replaced by the language of new Policy 5 shown in the memo dated 1/21/09. Modified Policy 4 in the 1/21/09 memo would be eliminated.

Referring to Goal 1, Policy 1, Commissioner Gilbert asked how noise contours would be used. Town Planner Mader said they gave an idea of the amount your property was impacted by transportation generated noise. If you were going to build a new residence or something that was noise sensitive within one of those contours, you would have to take actions to protect against excessive noise. That could include interior changes or exterior changes to the site. The contours showed where on the property the different noise levels came. He confirmed for Commissioner Gilbert that if an existing residence was in an area where the contours suggested the exterior noise levels were higher than the policy recommended, you wouldn't have to do anything unless you were going to do a major renovation or new project. He added that this was policy—not an ordinance.

Responding to Commissioner Von Feldt, Chair McKitterick said building a sound wall or berm could be a proposed mitigation measure, but the Town would always have the final say whether that was appropriate. Currently, if there was a view issue where someone would be looking into someone's bedroom, that didn't mean the builder could build a 20' solid fence as reasonable mitigation. If someone couldn't reasonably mitigate something, the Town could deny the development permit.

Town Planner Mader said if someone wanted to do something within the setback, they could argue a cause for a variance because of the way they were impacted by the noise. But, this document didn't in any way relieve someone of complying with all the normal rules and regulations. Responding to Commissioner Zaffaroni, he said if someone came in and wanted to put in a berm, there would be some discussion of why it was requested, visual impacts, etc. If they claimed it would be in conformance with this Element, it would have to be considered. The Town might or might not approve it based on the merits of the design. Commissioner Zaffaroni noted that the only goal that applied to existing development was Goal 4 (Controlling Noise from Construction and Maintenance Activities.)

Responding to Commissioner Zaffaroni, Chair McKitterick confirmed that he would like to change Policy 2 in Goal 1 to “New development of residential or other noise-sensitive uses are generally discouraged in noise impacted areas...” One of the sustainability goals was to have higher density development along transportation corridors. The Town also wanted the businesses along Alpine and Portola Roads to be put to their fullest use. But, he wouldn't want Alpine and Portola Roads to have a lot of sound walls. Town Planner Mader said it was a big question whether the Town would encourage higher density development. The one attempt at higher density development was a referendum. Most of the parcels in Town were developed already.

Commissioner Zaffaroni said the Element should be forward looking. There were a number of properties that might turn over and be converted to some other use. Chair McKitterick agreed noting that there would be proposals over the next decade or two that couldn't be foreseen right now. He wanted to be sensitive to the goals of green building and State standards without creating an inherent conflict in the Noise Element.

Commissioner Zaffaroni said the levels shown in Figure 2 should be used for consistency in Goal 1, Policy 2. Multi-family residential allowed exterior noise exposure up to 60 L<sub>dn</sub>. In Policy 2, it said 55 dBA L<sub>dn</sub> or less. She thought it should be 60 and include both single-family and multi-family residential. That would allow a little more flexibility. A lot of these projects were calculated very close to the edge in terms of financing and cost. She didn't want to make the project a lot more costly if it was not really necessary.

Responding to Chair McKitterick, Town Planner Mader said the normal standard for single-family residential in suburban or urban areas was 60 dBA. The noise levels in Town were lower, and he felt it was appropriate to have a lower standard. Commissioner Zaffaroni said the consultant's report indicated that levels up to 60 dBA were very common on collector streets. She felt 60 would be a fairer figure to use.

Under Goal 4, Commissioner Von Feldt questioned what "appropriate standard controls" meant. Ms. Lambert had indicated that for construction projects, rules and regulations were explained during preconstruction meetings. Town Planner Mader said the standard control for yard maintenance activities was the hours these activities could take place. Chair McKitterick noted that it had been broadly worded in the Element to encompass any requirements that the Town might adopt.

Referring to the Initial Study Checklist, Commissioner Von Feldt noted that 8g (p. 12) did not have a level of impact checked. On 16a (p. 15) and all of 17 (pp. 16 and 17), there was no source. Town Planner confirmed that for 8g, "No impact" should be checked and for the missing sources, it should be "Town Planner." Referring to the source comment for 15g (p. 15), he confirmed for Commission Gilbert that "more facilities" meant more trails, paths and lanes.

Commissioner Von Feldt suggested putting a condensed version of the approved Element and ordinance on the Website so that people would know there were changes to hours, etc. She also hoped that the guidance manual (Goal 4, Policy 4) and "quiet neighbor" information program (Goal 5, Policy 4) would be developed sooner rather than later.

Referring to Table 3, note "c", Town Planner Mader confirmed for Commissioner Zaffaroni that it pertained to situations where there was a higher existing noise level. If an existing use was generating noise above the levels in the table, a new noise generating use could not exceed the existing noise level. The only current thing that was being debated was The Sequoias. Not all the information was in on that yet. Responding to Commissioner Zaffaroni, he said he did not know if Roberts Market exceeded these standards; there were noise controls included in that permit.

Commissioner Gilbert said the new policy effectively said that The Sequoias could argue that the current level of noise was grandfathered in. She was not sure she was comfortable with that. Town Planner Mader noted that the consultant indicated that note "c" was a standard provision that he used. Commissioner Zaffaroni said if noise at The Sequoias could be traced to the new wing that was generating more noise, she assumed a CUP amendment would include a new use. Town Planner Mader said the Commission could require a higher standard for a new use. Commissioner Zaffaroni said they should be required to meet the new standard. Chair McKitterick said the Commission could modify any CUP that was up for renewal to meet the new standards. He did not think the policy grandfathered in noise that exceeded the standards. Commissioner Gilbert suggested changing the wording of note "c" on Table 3 to read: "...reduce the noise level of the noise source to at least the existing level." Commissioner Von Feldt agreed. It might be too onerous to require The Sequoias to meet these levels, but it shouldn't say that they didn't have to.

Chair McKitterick said this raised the policy issue of allowing another use that exceeded the noise generated by the source. Commissioner Zaffaroni agreed, noting that there would be a cumulative effect.

Commissioner Von Feldt said “at least” would allow the Commission to decide if the use had to meet the existing level or go further. Chair McKitterick said with co-joined commercial parcels like those at Alpine and Portola Roads, that might exceed levels above those in the Table. Town Planner Mader said he would discuss the issue with the consultant prior to review by the Council.

Referring to Table 3, Town Planner Mader confirmed for Chair McKitterick that the standards shown were recommended by the consultant. They were typical to residential communities such as the Town. Chair McKitterick noted that “noise sensitive uses” was not defined. He suggested moving the language in the note under Goal 3, Policy 1 (i.e., “Locations where there is greater sensitivity...” to Table 1.

Referring to Goal 3, Policy 3, Town Planner Mader confirmed for Chair McKitterick that the acoustical analyses standards came from the consultant. On the fifth bullet about assessing noise levels in sleeping rooms, Chair McKitterick suggested: “The report must address the theoretical or actual effects of maximum noise levels...” An acoustical consultant could extrapolate rather than go into people’s bedrooms.

Commissioner Zaffaroni said Goal 3, Policy 2, would be relevant in a CUP amendment. Referring to the last sentence in that section, if noise mitigation was determined to be necessary, she asked to what level it had to be brought down to. It didn’t say that it had to be brought down to the levels in Table 3. Town Planner Mader said that would be the objective. He noted that the first sentence said “...shall be mitigated so as to not cause the land use receiving the noise to exceed interior and exterior noise level standards of Table 3.”

With respect to grandfathering, Chair McKitterick said the Element did not make obligations on currently approved projects or existing uses. Commissioner Zaffaroni said the consultant said that because the Town was required to have an Element in compliance with State law, approved projects could be challenged by an affected party. Chair McKitterick questioned whether it would give anyone grounds to challenge an existing use. Commissioner Zaffaroni noted that the State law requirement that the Town needed to meet had to do with the noise contours. Town Planner Mader added that the State did not dictate the standards that had to be adhered to. The main requirement was to have noise contours that were stated in certain terms; that had been done. Beyond that, a lot was left up to the community. There were model ordinances, and the consultant had developed some. What was proposed followed very closely with what he recommended in other communities.

Commissioner Zaffaroni said she had assumed that Goal 3, Policy 1 was transportation noise and Policy 2 was non-transportation. Therefore, it made sense why they were distinguished based on comments from the Town Planner. She now understood that they both applied to non-transportation. She would need to make sure that she understood the two standards and that they didn’t create inconsistent standards for people. Town Planner Mader noted that any inconsistencies could be discussed when it was brought up to the Council. He agreed it was complex.

Commissioner Von Feldt moved to approve the Negative Declaration as amended. Commissioner McIntosh seconded, and the motion carried 5-0.

Commissioner Gilbert moved to recommend approval of the Noise Element to Council with changes discussed. Commissioner McIntosh seconded, and the motion carried 5-0.

#### COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

##### a) Noise Ordinance

Town Planner Mader said Councilmember Toben reported to the Council on his meetings with residents. He and Councilmember Toben met recently to go over some questions. A memo had been written to the Town Administrator asking what next steps should be taken. The Commission did not have to hold hearings on the ordinance because it was a Council matter. The key issue was that residents wanted to be able to work on weekends. The hours were being changed so that they would be very simple and easy to

understand. The Commissioners should decide whether they wanted to review the ordinance before it was acted on. Councilmember Toben said he valued the Commission's input on any and all matters. He hoped the Commission would review it. If residents had grievances, they would not hesitate to come to both Planning Commission and Council meetings.

b) The Sequoias

Town Planner Mader said the Town had engaged the same noise consultant to set up the protocol for the study to be done. There might be baseline measurements. All of the equipment would be looked at. Staff felt that if residents wanted to come in and hear informally what was taking place, staff would be glad to meet with them. Responding to Commissioner Zaffaroni, he said wording in the ordinance had been changed to address questions raised by Clair Jernick's consultant.

c) Liaison Change

Councilmember Toben said Richard Merk would be the new liaison to the Planning Commission. He expressed his admiration for the work of the Commission. The issues were very sensitive to residents and intellectually challenging as well.

APPROVAL OF MINUTES

Commissioner Zaffaroni submitted a change to the minutes of the 12/17/08 meeting. By motion and second, the minutes were approved as amended by a vote of 5-0.

ADJOURNMENT: 9:35 p.m.

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Nate McKitterick, Chair  
Planning Commission

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Leslie Lambert  
Planning Manager