

PLANNING COMMISSION MEETING, TOWN OF PORTOLA VALLEY, NOVEMBER 18, 2009,  
SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chair McKitterick called the meeting to order at 7:32 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  
Tom Vlastic, Dep. Town Planner  
Karen Kristiansson, Sr. Planner  
Richard Merk, Town Council Liaison  
Leslie Lambert, Planning Manager

ORAL COMMUNICATIONS: None

REGULAR AGENDA

- (1) Public Hearing: Consideration of Proposed Amendments to the Housing Element of the Town's General Plan

Ms. Kristiansson reviewed the staff report of 11/12/09 on the draft Housing Element update. She said she spoke with the Housing and Community Development (HCD) reviewer today who indicated that the Housing Element was compliant except for three things. First, they wanted to know more about the specific actions the Town would take to ensure that the Blue Oaks BMR lots were developed, or that some type of housing resulted from those lots. Suggested language was shown in the revision handout under paragraph 2480. Second, they wanted the Town to establish a monitoring component where the Town would annually review inclusionary housing, multifamily housing, and second units. Suggested language was shown in the handout for each of those programs. Third, for second units, they wanted more concrete actions and when they would be taken. Suggested language was shown in the revision handout under paragraph 2482. For paragraph 2482a, the reviewer indicated today that they were concerned that the ASCC review would add a layer of review that might act as a constraint. She suggested adding language to indicate that the ASCC review was a design review rather than a discretionary review. She felt the revisions in the handout were very close to what HCD wanted. When the final letter was received from HCD, any additional revisions requested should not affect the CEQA analysis and Negative Declaration. She suggested the Planning Commission recommend that the Town Council adopt the Housing Element update with the understanding that when it went to the Council in December, a little more language might have to be added. If HCD wanted something more significant, the Council could refer it back to the Planning Commission. Town Planner Mader noted that the debate with HCD had been going on for a long time. Ms. Kristiansson added that HCD had not met their deadlines three or four times throughout the process.

Responding to Commissioner Gilbert, Ms. Kristiansson confirmed that HCD had not questioned the estimates for the number of new units the Town needed and how those were obtained. They felt the second unit program was the most significant program for the Town, and they wanted it to be very strong. Commissioner Gilbert noted that two incentives for second units had been deleted from this version: The Commission might consider 1) decreasing the fees for second units; and 2) providing floor area credit for parcels with second units. To expand the number of second units in the future, she suggested allowing a second unit within the existing building footprint on parcels less than one acre. Referring to page 13 of the Element, paragraph 2427, she said the chart showing the total population of 4,622 for 2000 did not match the chart on page 23, which showed the total population for 2000 as 4,462. Referring to p.26, she said paragraph 2431(l), seemed to contradict itself. Referring to p. 27, paragraph 2431q, she said it should be "ELI homeowners." Referring to page 83, she said the numbers on the chart for new construction did not agree with the detail on p. 58. Ms. Kristiansson said the table on p. 70 showed a total of 88, which corresponded with the total shown on p. 83. There was no approved Housing Element for the last cycle, so housing since 1990 had to be planned for. The Town was allowed to count housing built since 1990 against

that. The chart on p. 58 showed the total needed for both planning periods as well as how much had been built for an adjusted need for this Housing Element of 58 units. The chart on p. 70 showed those 58 units on the top line. For this Housing Element, 88 units were planned for rather than 58. Commissioner Zaffaroni felt there should be one more column on the chart on p. 58 that showed the adjustment after unmet needs were satisfied.

Referring to p. 17, paragraph 2429b, Ms. Kristiansson confirmed for Commissioner Zaffaroni that the “2-4” and “5+” columns indicated the number of multifamily housing units within the building. Responding to Commissioner Zaffaroni, she said she would follow up on the reference to “10 or 100” on the chart in paragraph 2442b on p. 33. Referring to the Inclusionary Housing Requirements, Commissioner Zaffaroni said she also questioned what the Town would do with the Blue Oaks BMR lots. Everyone felt a sense of frustration that the Town hadn’t been able to move on that in an expeditious way. In terms of the allocation of potential units based on income levels, it was helpful that the Town could take “very low” or “extremely low” and have them count against higher income categories. When the Town had the opportunity to secure something in the very low versus moderate category, there was a secondary advantage of being able to allocate up from the very low category if the Town needed to do that. These things would be coming up year after year, and it was something to keep in mind. Basically, the second units provided most of the “extremely low,” which was also something to think about. When increasing the square footage had been discussed for second units, she pointed out that going larger also increased the rent. Ms. Kristiansson added that the HCD reviewer mentioned the size of the second units. Their perspective was that since second units were providing all of the extremely low and most of the very low income units, by limiting the square footage to 750 sf, the Town was basically providing extremely low income housing for small families but nothing for larger families.

Referring to paragraph 2417a, Ms. Kristiansson verified for Commissioner Von Feldt that the density bonus had not been codified and was policy at this point; it was included in the Action Plan. Referring to the revisions handout, Commissioner Von Feldt questioned the use of the term “working committee.” She felt “ad-hoc committee” was more familiar. Referring to paragraph 2480c, she questioned whether the deadline of 2010 for resolving the Blue Oaks BMR issue was reasonable. Ms. Kristiansson said the thought was that the Town would decide which way to go in 2010, line up a developer in 2011, and get something built in 2012 or 2013. The key was that they had to be built by 2014. On second units, she felt the Town could meet the numbers with the current incentives.

On the Blue Oaks BMRs, Chair McKitterick asked if the Town had committed to provide the land at no cost to the developers as an incentive. Ms. Kristiansson said the land had been deeded to the Town at no cost for the sole purpose of building these units on it. Councilmember Merk confirmed that the Town owned the land, and it could be sold if the units were built somewhere else. Chair McKitterick suggested “potentially providing the land at no cost” in paragraph 2480a of the revision handout.

Chair McKitterick opened the public hearing.

Ed Wells, Naranja, said he had a second unit that had been continuously rented since 1984. There was a great deal involved in running a second unit as a rental. He suggested the Town conduct workshops that educated people on planning, building, renting, insurance, legal aspects, what you could and couldn’t do, etc., with a second unit. The Town could help encourage other kinds of second units. He thought a more upfront relationship should be created with people who came in to get new building permits. In Town, there were undeclared second units, some in-fill opportunities, etc. The Town should reach out to people who might be interested in second units. The Town was getting credit at the State level because it created the unit, but the State didn’t care if it stayed vacant. In terms of convincing the State that the Town was doing something, you needed to tell people how to use it, how to create it, what kind of people you could get, and different ways of configuring 750 sf. In terms of an expansion from 750 sf to 1,000 sf, he felt it would be counterproductive. These units were part of large properties and were supposed to be subsidiary to the main use of the property. The larger you made the unit, the more difficult it would be to avoid having a family move in. There was a lot to gain by reaching out to people who had undeclared second units. Chair

McKitterick noted that outreach was called for in paragraph 2482b of the Housing Element.

There were no additional comments, and the hearing was closed.

Commissioner Zaffaroni moved approval of Resolution No. \_\_\_\_\_-2009 Recommending Adoption of the Updated Housing Element, as amended, and a Negative Declaration for the Project. Commissioner McIntosh seconded, and the motion carried 5-0.

(2) Preliminary Review: Proposed Lot Line Adjustment (LLA) X6D-206, 160 Cherokee Way and 90 Iroquois Trail, Shustek/Dubinsky/Wong

Mr. Vlasic reviewed the staff report of 11/12/09 on the request for a lot line adjustment to transfer 5,349 sf from the parcel at 90 Iroquois Trail to the parcel 160 Cherokee Way.

Phil Young said he owned 55% of the lakefront property. He felt the character and purpose of the lake had been overlooked in the discussions. He displayed photographs of the lake from various views. It was very wooded and a wildlife refuge. The existing agreement was to maintain it as it was when the land was divided up among the three properties. He took issue with the conclusion of the Town Attorney that the proposed lot line adjustment would not affect any existing easements. There were easements on all three of the properties to maintain it as it was. With the proposed easement, that entire area could have the trees cut down, and it could be turned into a grassy, suburban, recreational area. Ten years ago, he noticed a big grass lawn with white furniture instead of the natural wildlife area. With the Wongs' permission, he planted some trees to try to restore the natural look of the lake. Those trees had been hedged by the property owners so that they could have another view. Instead of being a wildlife refuge, this lot line adjustment would turn this into a suburban recreational area. That would destroy a very important natural habitat that had been in Portola Valley for a century. Referring to Douglas Aikins's letter of 10/27/09, he said he disagreed with the statements made in the closing paragraph. In contradiction to the terms of the agreement among the property owners, which was to maintain the lake substantially as it presently existed, the proposed easement specifically said: "Physical improvements and alternations to the easement area incident to establishment and maintenance of residential landscaping, irrigation, outdoor recreation, stormwater drainage, and all other uses incident to the owner's parcel's primary use are authorized by this agreement." That was also contrary to the kind of public policy that was underlying what people wanted for Portola Valley.

Dave Davison said he had been living on his property for over 40 years. He and his wife were original signatories to the easement that was part of the subdivision of the property. The property had been divided with the firm intent to maintain it as what was then called a scenic easement. At the time, Ormondale School teachers used to bring children down to look at pollywogs and check out things in nature. It had been an environment of enormous value to those who lived there. To bring in yet another property owner with new lakefront property was contrary to the original agreement that was signed. He did not think that was appropriate. Mr. Wong could easily sell off another piece of his property or do another lot line adjustment with the neighbor to the north. There were environmental issues surrounding this piece of property, and he urged the Commission to come and look at the property and understand how important it was to maintain it and not open it up to another property owner, which might bring all kinds of differences that couldn't be anticipated. He felt it would take away from his property. The only person who would be gaining anything was the person who was selling the segment to the next door neighbor. Over the years, he and the Youngs maintained the lake and provided ways to keep it pristine and clear. That was not something he could assume from the new property owner. Even if this property owner took it on, who knew who might come next. He wanted the property maintained as it was and not open it up to new ownership.

Chair McKitterick said the maintenance agreement said that if someone transferred a part of their land or an interest in their land, this agreement would apply. It appeared that back in 1968, the property owners conceived that someone might convey part of their lands. Mr. Young said he did not believe that was the case. This lot line change was an escape around subdivision laws to get another access to the lake. Mr.

Davison said adding a fourth property that would clearly be used as a recreational area would change the character of the lake. The proposed easement agreement specifically authorized them to make landscaping changes to the property. The later agreement would supercede any interpretation of the earlier agreement. With a property like this, that couldn't be reversed. If this became a recreational area rather than a wildlife refuge, the wildlife refuge would be gone.

Len Shustek, applicant, said he and his wife had lived on the property for 20 years. Mr. Wong was selling his house. He wanted to buy a small strip from Mr. Wong that would allow his 300' long property to go for the last 30' for access to the lake. He and his wife cherished the lake. He would be subject to the same restrictions and obligations that any property owner was subject to. Anything that they could or could not do would be exactly what he could or could not do. Nothing would change.

Mr. Vlastic said he was not comfortable with the scope of the easement language in terms of allowed usage. When the final document was drawn up, he recommended that it basically be left in a natural state. The suggestions in the easement were bothersome because they opened up additional uses. Additionally, the lake agreement was not an easement. Paragraph (b) said the owners would not willfully cause the area of the lake to be reduced nor would any of them build or cause to be built any residence or garage closer than 5' to the shoreline of the lake. The agreement itself probably didn't suggest the level of care around the shore of the lake that had been exercised by the owners. Staff's concern was that when this lot line adjustment was made, that area should be left in pristine condition. The applicant indicated that their intent was to maintain the drainage facility that came through there because it had caused problems to their property. The view from the Cherokee Way property was very much in a natural condition. He understood that all the applicant wanted was to have the legal right to the access to the lake. But, staff knew that the proposed easement needed work.

Responding to Chair McKitterick, Mr. Vlastic said a lot line adjustment could be looked at from a zoning perspective, building permit perspective or easement perspective. As long as it didn't create the potential for subdivision or a new lot, the Commission had very limited discretion in the actions that could be taken. Controlling the setback areas and preserving the shore of the lake were fully within the zoning provisions. The covenant or easement was fully within the zoning of protecting those yard areas. The Town Attorney indicated that there were limited things you could consider as part of a lot line adjustment.

Ms. Lambert noted that Nancy Young contacted her and indicated that she was very passionate about the lake and the maintenance/care of the lake. She was concerned that in this one specific area, the reeds and some of the other water plants should be left intact because it was an important nesting place for the birds on the lake.

Responding to Commissioner Zaffaroni, Mr. Vlastic used a larger diagram to show the layout of the lake and parcels, including a small triangle of land belonging to modified parcel 1 which would not be accessible. Mr. Aylsworth had suggested that the proposed lot line be adjusted to add this area to the lands to be transferred.

Responding to Commissioner Gilbert, Mr. Davison said the lake level varied 5-6' depending on rainfall. He described work that had been done to correct drainage problems. In the spring, spraying was done to keep the weeds down. Mr. Shustek said for 20 years, he had maintained the culvert that flowed through the property; if that culvert was not maintained, the lake backed up. Mrs. Shustek said that demonstrated that they were trying to be good citizens of the lake. Mr. Vlastic said whether there were three or four owners, the lake agreement could be amended to cover more of the issues that had been identified. Over a period of time, there was a good chance these properties would change ownership, and the agreement might not be as comprehensive as the current owners would like. Mrs. Shustek said it was important to realize that there would be a new owner of the Wong property.

Chair McKitterick asked that when the application came before the Commission, there be some kind of resolution that would allay the fears and concerns of all parties about the future of the lake. He did not know

if the current lake maintenance agreement did what the property owners wanted.

Responding to Commissioner Zaffaroni, Mr. Vlastic said he was not clear whether there were any drainage easements. The lake agreement was not an easement. The engineering review did not identify any easements, but he would ask that they take another look because of the drainage facilities that existed. Mr. Davison said it was a condition of the subdivision of the property. He was the only one present who was an original signatory. The easement that went along with the subdivision was to protect the lake. Mr. Vlastic said the Town Attorney would also conduct a review.

Commissioner McIntosh said the Town had limited ability to deny something like this. But, the property owners and the Town had similar interests and that was to preserve the habitat quality of the lake—particularly with the new owner coming in soon on the Wong property. He encouraged the property owners to get together and draft a better maintenance agreement that they all could sign. That would serve the Town and presumably serve the property owners.

Commissioner Gilbert said she supported trying to preserve that part of the lake as well as the entire lake. She did not fully understand what the Commission could or could not do to accomplish that. Responding, Mr. Vlastic said staff would try to craft language to preserve the conditions in this area to the satisfaction of the Town Attorney. There was a nexus relative to protecting the boundaries along properties. Responding to Commissioner Gilbert, he said a lot line adjustment could be denied if it violated provisions of an easement or created a situation that would be incompatible with the zoning or the provisions of the building code. He did not think that was happening here. In the past, there had been situations where a bit of an adjustment would allow a parcel to be subdividable that wasn't before. That would not be appropriate for a lot line adjustment. Town Planner Mader noted that while this was categorically exempt, CEQA allowed a community to review something if it was suspected that there was an environment issue. CEQA could play a role if the Town Attorney felt that was appropriate.

Commissioner McIntosh said it sounded like a deed restriction might be appropriate. He asked if the two parties to the lot line adjustment would be amenable to a maintenance agreement that was conservation oriented. Mr. Shustek said he was willing to do that, noting that the agreement would have to apply to the person that bought Mr. Wong's property. He reiterated that he was not asking for any more or less rights than the next buyer of that property would have. Commissioner McIntosh said eventually, there would be new owners of all of those houses. He hoped a maintenance agreement could be worked out that preserved the pristine nature of that lake. Mr. Shustek said he could not be a party to that agreement until the lot line adjustment went through.

Mr. Davison said the maintenance of the lake did not require another owner to make it more efficient or valuable. He would not object to a stronger environmental edict on the property. Chair McKitterick said the issue was what steps the current owners and the applicant could take to strengthen what were fairly weak environmental restrictions of that lake for use and maintenance. Mr. Vlastic said the likelihood for changes to the structures on the Wong property was high. That was not consistent with the way the other owners had been handling their property. He hoped the owners could work together—including the new owners.

Mrs. Shustek said financially this transaction was important to Mr. Wong because he intended to use the funds to help remedy the sewer situation that he had on his property. She would be more than happy to renegotiate the lake agreement, but that should be after the lot line adjustment because of the pressure on Mr. Wong to keep moving forward. Chair McKitterick encouraged the property owners to come up with something that was contingent on the lot line adjustment so that everyone was satisfied that it would go through.

Mr. Young said when he purchased the property, it was certainly described as an easement. There were certain objectives set forth for both the Town and the owners. The property north of Cherokee was also interested in accessing to the lake. As soon as this went through, there would be other requests for access to the lake. The lake could end up with three new owners of lakefront property who were planning to use it.

Chair McKitterick said this didn't prevent people from selling parts of their land and doing that. He reiterated that there needed to be a new agreement that provided for the things that the property owners wanted for the lake, the state at which it was maintained, etc. Whether it was owned by four parties or six, Mr. Young said that was not the same thing as the agreement the owners made with the Town. The Town needed to look at whether or not it had the authority to agree with the agreement made forty-some years ago to maintain the property as it was. Mr. Vlasic confirmed that that was what the staff wanted in the easement.

(3) Preliminary Review: Site Development Permit X9H-609 for New Residence and Site Improvements, 40 Antonio Court, Larson

Mr. Vlasic reviewed the staff report on the application for 7,600 cubic yards of grading for new residential development on the subject 4.48-acre Priory subdivision property. Responding to Chair McKitterick, he pointed out cut and fill areas. The disturbed area cut and fill would be compacted on site to reduce erosion. They would also be planting natives. Responding to Commissioner Gilbert, he said the fill would not be just dumped on the site. The Town Geologist was concerned about an area where there would be a concentration of water; on site and off site impacts would need to be addressed.

Responding to Commissioner Zaffaroni, Mr. Vlasic confirmed that the PUD requirements pertained to all the properties in the subdivision. There was a minor issue with the accessory guesthouse in terms of floor area that would be resolved through the ASCC review process. The bocce court extended into the setback area and should probably be pulled back into the building envelope. Using the plans, he showed the location of the bocce court. Responding to Commissioner Zaffaroni, he said it would not be lighted. Commissioner Zaffaroni said drainage had been a primary concern with the Priory master plan. There was a lot of discussion about the flow coming off of that hill all of the way down going into Corte Madera Creek. She hoped that would be very carefully addressed so that it didn't exacerbate any existing conditions. Mr. Vlasic described the water flow noting that most of the water collected on the site would remain on the site or be directed down Veronica. The concern was where it concentrated at the corner with potential impact on the adjoining properties. The contours were not that significant, but the water was being collected at a low point.

The Town Geologist did not want that concentration to occur without further review and probably some adjustment to the design. Responding to Commissioner Zaffaroni, he said the subdivision was considered in terms of off-site view impacts. The primary and secondary building envelopes and height restrictions were defined as a result of that. The view analysis was incorporated into the standards for the subdivision. Responding to Commissioner Gilbert, he said the house was restricted to the primary building envelope.

Robert Larson, applicant, said his architect and landscape architect were present to answer questions. He said he had wrestled with the design of the house for two years. The building envelope tightly restricted where you could build on the site. Because of the way the building envelope was sited, anything you built at grade would have a big impact on the neighbors, obliterate the knoll, and be very visual from the trail below.

The concern was to come up with a design that was functional but also respected the topography of the site and lowered the building down into the site. After balancing everything out, the decision was made to force a large portion of the structure itself down into the hill. That was what created the big cut and fill issue. That had cost implications that were not insignificant, but he was willing to bear that cost in order to get a better design and better outcome for what the community/neighbors would see. He noted that he was an existing resident, wanted to be a permanent part of the community, and was willing to go the extra mile in terms of doing something that was part of the fabric of what was wanted in the community. The neighbors had benefited from the fact that this had been open property for a long period of time. Much of it would be maintained as it was. The landscape pallet was native California plantings. There would be a green roof on a portion of the property. The design was difficult to understand in the abstract because it involved a number of elevation changes. The theme was to push everything down, which resulted in a significant amount of grading.

Craig Brown, Antonio Ct., said he had enjoyed that private park for almost 30 years. The inevitable was happening. He felt it was premature to offer any substantive comments. From his property, what was proposed did not interfere with his view of the hills and much of the vista that he enjoyed. How and when

2,500 cubic yards was off hauled would be of interest to everyone on Antonio Court as well as Sausal, Hillbrook and everyone else along the way. The sinking of the house and the design offered real benefits to a number of residents in the area.

Dave Darling, architect, added that he understood that the concentration of water in the corner of the lot had to do with the stability of the soil. He offered to provide a drawing showing where the unstable soil was.

Commissioner Von Feldt said she liked the design of the house with the strong horizontal lines, finishes, and tucking it into the site. She also liked the use of natives and the grass roof, which would make the project more successful. Because it would be hunkered down into the site, she was comfortable with the amount of grading that would be required. But, she would like to see that number reduced if there were any opportunities to do that. There was also a basement. The impact on neighbors should be considered in terms of truckloads as well as the environmental impact. She asked the applicants to really look at the numbers and verify that this was the size house they really wanted. In general, keeping dirt on site was better for the neighbors, etc. But sometimes, dirt could smother the existing natives. Regarding drainage, she felt there were probably opportunities to put the water somewhere on site and have it be an interesting landscape feature.

Commissioner McIntosh said it was a very creative solution and very interesting. Commissioner Zaffaroni said she liked the model, which was very helpful and showed how much it receded into the slope. Chair McKitterick felt it was generally consistent with the PUD. Mr. Vlasic noted that the site meeting was scheduled for Monday at 3 p.m.

(4) Continue Review of CUP X7D-169 for Request to Permit Additional Floor Area and Impervious Surface Area on 229-acre Parcel, 555 Portola Road, Spring Ridge LLC (Neely/Myers)

Mr. Vlasic reviewed the staff report of 11/12/09 on the CUP for the 229-acre parcel. He said staff would like to see one, overall master plan for the property that identified the floor areas and impervious surface and also provided some assurances for the open areas on the property. He said the Open Space District had expressed concerns about the proposal, and Bill Lane and the Westridge homeowners' association had expressed concerns relative to views of the western hillside. Those comments had been shared with the architect. Responding to Commissioner Von Feldt, he said a riding ring was considered impervious surface because of the compaction due to riding and continuous use. Responding to Commissioner McIntosh, he said an effort had been made to find a site for the agricultural buildings that was not highly visible from the Portola Road corridor. Views from the Open Space District parking lot, The Sequoias, trails, etc., would need to be looked at.

Carter Warr, architect, said the story poles would go up starting tomorrow. Commissioner McIntosh said the agricultural building was far away from all the other functions on the property. He questioned what purpose it would serve. Responding, Mr. Warr said the agricultural building was a set aside but made sense as a storage building. It was a pretty small building at 30' x 60' and was about two-thirds the size of the barn on the Jelich property. All of these facilities had been carefully located so that they were hard to see if at all viewable from anywhere. The location close to the road was more invisible than almost any place else. Responding to Commissioner Von Feldt, he said it was not known what the owners would continue to do from an agricultural standpoint. Historically, that pasture had been hay. Responding to Commissioner McIntosh, he said the fairly new barn was about 10 years old and was a lot bigger than the agricultural building. He noted that the area around the agricultural building would be compacted base rock in order to support trucks. That and the riding ring were counted as IS, but about 44,000 sf of IS would not act or look like paved surface. He looked forward to showing the Commission the story poles. He added that the Neelys cared a lot about this property and shared the concerns of the Westridge Committee, Bill Lane, and the Planning Commission. The proposal was an opportunity for the family to use the property without having to come back for a use permit approval every time they needed to do something. The request was for proportionally a very small amount of floor area and impervious surface.

Responding to Chair McKitterick, Mr. Warr said there was no plan to have a haying operation, to use the agricultural building for the winery, or for anything else. It was just to locate that square footage in the best possible place from the Town's standpoint that could work as an agricultural building and be essentially invisible. You couldn't see it from the Open Space parking lot or The Sequoias. You could see it a lot less than you could see The Sequoias new buildings or the barn on the adjacent property. Responding to Chair McKitterick, he said the building might be smaller when they actually built it, but it would be in this location and be a non-habitable structure. Responding to Chair McKitterick, he said he understood that the meadow was to be preserved for people to look at. Pulling the building towards the trees and screening it with the natural berm that was there would make it essentially invisible from off site and would preserve the meadow. If the meadow was used for agriculture, it would be used for hay as it historically had been.

Given the amount of land that the Neelys owned, Commissioner Zaffaroni said she didn't understand why the meadow had to be a site for development in light of the General Plan standards that indicated that the meadow preserve should be used as a site of last resort. Initially, comments had been made that there was lots of room to tuck every building away without impact. She had not heard a compelling reason why the building had to be located there—especially since there wasn't any access right now. Referring to the General Plan, she read from sections pertaining to the Portola Road corridor and the meadow preserve. There were standards in terms of how either side of the Portola Road corridor should be preserved. If there were no other alternatives, it might be a more compelling case, but she did not know why that particular location was a choice given the amount of the land. There were options to guide development outside areas that were designated in the General Plan as being sensitive and designated for preservation. It would be important to view the story poles as well as consider optional locations.

Mr. Warr said the location where the building was proposed was compliant with the General Plan because it preserved the open space character, didn't occupy the meadow, and was almost invisible from the scenic corridor. It answered the need for storage of agricultural products and was close to the road. Responding to Chair McKitterick, he said part of the reason for that location was easy access to the road. If you produced a product like hay, it would be carried off in big trucks and loaded on flat ground. If you took it further back into the property, it would occupy more space and require more access. It was congruent with the General Plan that said this should be maintained for agricultural use. Responding to Chair McKitterick, he said the General Plan indicated that the meadow was to be preserved because of its scenic quality. The agricultural building could not be seen by anyone. That was the reason that location had been selected. It was an agricultural storage building adjacent to an agricultural field. It was a 1,800 sf building with porches on the end so that you could store hay. It was not unspecified and had been well thought out.

Responding to Councilmember Merk, Mr. Vlasic said he did not know all the history behind the second access. Mr. Warr said the gate went in with a temporary access to do the culvert replacement. There had historically always been access, and it was noted on a deed. Mr. Vlasic said there was reasonable basis for some maintenance/secondary access to the property. But, understanding the use of that and the limitations were important to discuss. Commissioner Zaffaroni said the location of the building was being justified on the basis that there would be a lot of activity there. If that activity was not permitted, that made a significant difference as to whether the location made sense. Mr. Vlasic said the question was whether they had the right to access through there or would need an encroachment permit. Commissioner Zaffaroni said emergency access was quite different from commercial access or agricultural use. Mr. Vlasic said this was why the use issue was key so that it was understood what was being authorized with the use permit. Mr. Warr said it was an agricultural storage building. It could be tractors, etc. The use would not be different than what the property had historically been used for. Mr. Vlasic said if the Town was going to authorize something, the structures as well as the use was being authorized. To go through the environmental review process, you needed to know what you were reviewing. If a hay operation of a limited nature was an appropriate thing in the meadow and conditions were written that were mutually understood and acceptable, that was one thing. But, the Open Space District would want to know what the specific uses were going to be.

Town Planner Mader said Mr. Warr indicated that putting the storage building there was a way to preserve



the meadow; if you were going to have a haying operation, you needed a building and that preserved the meadow. Mr. Warr also stated that no one could see it. That was not true. You wouldn't see it directly from Portola Road, but you would see it from the Open Space District parking lot and The Sequoias. Responding, Mr. Warr said it was as invisible as it could be. He looked forward to the field meeting.

Commissioner McIntosh said it was clearly a non-residential use. But, you couldn't make a determination of the impact of a facility if you didn't know what the facility would be used for.

Commissioner Von Feldt said there had been some bad historical agricultural uses that had occurred in Portola Valley. Maybe they hayed that field a few times, but it was also a wildlife corridor with a lot of native plants. Mr. Vlasic confirmed that an environmental assessment would have to be done for any haying operation. But, the Town needed to know what it was evaluating in terms of the use. The Open Space District was extremely concerned about the use of the meadow. Responding to Commissioner Von Feldt, he said just because it historically had been used in a certain way did not mean that was grandfathered in. On the other hand, until the Town knew what was proposed in terms of an operation, it was hard to know how to react. The building might have certain impacts or non impacts, but until it was known how it would be used, a full review or recommendation could not be made on the use permit.

Commissioner Zaffaroni said she wanted to get clarity on the access issue. With the White CUP, they had different accesses to the property. The Planning Commission went through a lot of discussion. Generally, access in and out of Portola Road was discouraged. Mr. Warr added that there was a gate at the northern end as well.

Bev Lipman, Favonia Rd., said she was confused about the barn. The staff report indicated that the proposed barn location was considered acceptable. On the new plan with the future agricultural building location, it said proposed location for future barn. The square footage on the agricultural building in the proposal was 1,800 sf, and the barn was 4,200 sf. Mr. Vlasic said the barn was higher up on the hillside. There were two alternative sites that were originally proposed for the barn that were looked at at the first site meetings. The one further away from the main access road was now the horse stable with riding ring.

Rusty Day, Piñon, wanted to bring attention back to the General Plan. This Commission had to make findings that the CUP was consistent with the General Plan as well as with the zoning regulations. The General Plan was very clear about how precious the western hills were. This Town was organized to preserve that unique asset of the entire community. It was so unique, it was the original location of the Open Space District. This property nestled against that hillside. This was obviously private property, and the owners had certain rights consistent with the General Plan. It was very important for this Commission to bring into focus how the uses being requested related to the General Plan. When you put the requested uses up against the General Plan, you should ask yourself if this use was necessary in this location and if it would run counter to or jeopardize the goals, objectives and policies laid out in the General Plan. As a member of the Town, he would like to hear input to this process based upon a reasoned consideration of how this proposal related to the General Plan. That required a very specific delineation of the uses that were being proposed and why that use was appropriate in this location consistent with the General Plan. It was unfortunate that this fell to the Neelys. But, they had a spectacular piece of property that nestled against an even more spectacular piece of property that everyone shared in common. It was important that there was a specific proposal; he did not feel that had been presented. There was no one map that everyone could look at with a siting of every building, the specification of the use, and floor area and impervious surface. In June, the IS was 32,000 sf; now it was 92,000 sf. There was 18,000 sf around the agricultural building, and he questioned what that would be used for and how it would eat into the meadow. This all needed to be put on a plan so that the community could provide some informed feedback.

Town Planner Mader agreed that this was a spectacular piece of property, and the Commission had a tremendous burden in dealing with it. This was not an insignificant project. It reached development high on the western hillside on a cul de sac, which the Town did not typically allow. There were exceptions on IS and FA, and it was taking place almost in a vacuum in terms of community input. He hoped that the

community would be involved somewhat more. The Town needed to know what the total concept was for the whole property. He urged that as this moved along, the entire land be looked at and that there be as much assurance as possible that the environmental quality be a part of the approval rather than just approving buildings here and there. Mr. Vlasic had tried to steer this to get a comprehensive look at the whole property, which was very important. He hoped that the community would have somewhat more awareness of this. The Town did what it could to reduce the spill of light. Once that started happening on the western hillsides, people would start talking about it. It needed to be thought through very carefully. The concerns expressed by Mr. Day were things that the wider community might also voice.

Mr. Vlasic said the Commission was a step closer in terms of what the plans showed for the buildings. But, it needed to be taken far enough so that there was a full understanding of what was proposed. In terms of the community, the Westridge community had expressed some concerns. Staff was trying to get this application as clear as possible. He reiterated that staff would like to see one map that showed all the locations with a clear understanding of what would happen at those locations in terms of the buildings, impervious surface, the uses, and how those uses related to other areas of the property. Dr. Neely had offered some options in the past for ensuring preservation of some of the more critical open space areas that were identified in the General Plan. That might need to find its way into the master plan as well.

Responding to Chair McKittrick, Mr. Warr said there was a detailed review of the proposed greenhouse by the ASCC. Mr. Vlasic noted that a number of restrictions had been placed on the interior lighting. There were also shades to control sun and reflection. Chair McKittrick said he was not opposed to the additional square footage as far as the guest house, art studio, barn and riding ring.

Commissioner McIntosh agreed that the focus should be on the General Plan.

Commissioner Zaffaroni said the IS was dramatic. In one of the earlier memos, it indicated that a subdivision into four parcels would have an IS allowance of 80,000 sf. This was over 91,000 and a significant increase from the prior application. From a distance, IS could make a big difference in terms of visual impacts. She wanted to know why that had grown so significantly. Responding, Mr. Warr said the barn had been designed for six paddocks, which all had to be a certain size, and the riding ring was 100' x 200.' There were 16,000 sf around the agricultural building, which included truck access. Responding to Commissioner Zaffaroni, he said all of the proposed buildings were off of existing roads. Mr. Vlasic said the key changes were the riding ring and the loading areas around the proposed agricultural building.

Responding to Commissioner Zaffaroni, Mr. Vlasic said this CUP was for floor area and the other CUP was for the winery use. There were two specific requirements in the zoning ordinance. Responding to Commissioner Zaffaroni, he said there was one use permit for the Fogarty winery operation, which included the rental activities as part of the winery. There was one use permit for the Priory itself and several use permits for the antennas at the Priory. Responding to Commissioner Zaffaroni, he said the winery activity on this property was a separate activity. It could have been put under one use permit, but staff felt the floor area related more to the residential use of the property. Commissioner Zaffaroni said she had originally assumed that the agricultural building was for the winery. Mr. Vlasic said it was now known that that was not the case. It might be used for equipment used in the vineyards. If there was much more integration between the structures and the winery use, it might be appropriate to have it all under one use permit. Responding to Commissioner Zaffaroni, he said the ASCC would discuss whether a deed restriction was appropriate for the guest house and art studio. Responding to Commissioner Zaffaroni, Mr. Vlasic said he would follow up on the MROSD issue about the culvert. He suggested e-mailing any additional questions to Ms. Lambert. The site visit was scheduled for Monday at 4 p.m.

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

Town Planner Mader said the geologic maps would be before the Commission on December 16. One meeting had been held with residents on Westridge and Hillbrook and another for residents on the San Andreas Fault.

APPROVAL OF MINUTES

Commissioner Zaffaroni submitted a change to the minutes of the 11/4/09 meeting. By motion and second, the minutes were approved as amended by a vote of a vote of 4-0, with Chair McKitterick abstaining.

ADJOURNMENT: 10:50 p.m.

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Nate McKitterick, Chair  
Planning Commission

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Leslie Lambert  
Planning Manager