



TOWN OF PORTOLA VALLEY
REGULAR PLANNING COMMISSION MEETING
765 Portola Road, Portola Valley, CA 94028
Wednesday, December 7, 2011 – 7:30 p.m.
Council Chambers (Historic Schoolhouse)

AGENDA

Call to Order, Roll Call

Commissioners Gilbert, McIntosh, Von Feldt, Chairperson McKitterick, and Vice-Chairperson Zaffaroni

Oral Communications

Persons wishing to address the Commission on any subject, not on the agenda, may do so now. Please note, however, the Commission is not able to undertake extended discussion or action tonight on items not on the agenda.

Regular Agenda

1. *Public Hearing: Review of Revised Conditional Use Permit (CUP) Application X7D-169, Request to Permit Additional Floor Area and Impervious Surface Area on 229-acre parcel, 555 Portola Road, Spring Ridge LLC (Neely/Myers)*

Commission, Staff, Committee Reports and Recommendations

Approval of Minutes: November 2, 2011

Adjournment

ASSISTANCE FOR PERSONS WITH DISABILITIES

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Technician at 650-851-1700 ext. 211. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting.

AVAILABILITY OF INFORMATION

Any writing or documents provided to a majority of the Town Council or Commissions regarding any item on this agenda will be made available for public inspection at Town Hall located 765 Portola Road, Portola Valley, CA during normal business hours.

Copies of all agenda reports and supporting data are available for viewing and inspection at Town Hall and at the Portola Valley branch of the San Mateo County Library located at Corte Madera School, Alpine Road and Indian Crossing.

PUBLIC HEARINGS

Public Hearings provide the general public and interested parties an opportunity to provide testimony on these items. If you challenge a proposed action(s) in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing(s) described later in this agenda, or in written correspondence delivered to the Planning Commission at, or prior to, the Public Hearing(s).

This Notice is posted in compliance with the Government Code of the State of California.

Date: December 2, 2011

CheyAnne Brown
Planning Technician



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Planning Commission
FROM: Tom Vlastic, Town Planner
DATE: December 2, 2011
RE: Conditional Use Permit Application X7D-169,
Request to Permit Additional Floor Area and Impervious Surface Area on
229-acre parcel, 555 Portola Road, Spring Ridge LLC (Neely/Myers)

Location

1. Address: 555 Portola Road
2. Assessor's parcel number: 076-340-110
3. Zoning Districts: R-E/2.5A/SD-2/DR and M-R/7.5A/SD-3/D-R

Public Hearing and Actions before the Planning Commission

On December 7, 2011, the planning commission is scheduled to conduct a public hearing on the subject revised conditional use permit (CUP) application initially filed in 2009. The commission is being asked to approve the use permit, as explained in this report, for additional floor and impervious surface area on the subject 229-acre site and, in support of the application, approve a Mitigated Negative Declaration.

The commission should open the public hearing on December 7th and, after receiving the staff report, report from the applicant and public comments, provide commission comments, questions or concerns on the proposal and then continue the public hearing to the regular January 18, 2012 meeting. This will permit time for staff and the applicant to address any commission concerns and comments and also for circulation of the proposed Mitigated Negative Declaration. The public review period on the proposed Mitigated Negative Declaration extends from December 2, 2011 to January 6, 2012. Any comments received on the proposed Mitigated Negative Declaration would be considered and addressed in the report prepared for the January 18, 2012 meeting. That report would be available on January 13, 2012.

As this matter has been before the commission for some time, this report relies on a number of reports and documents previously presented to the planning commission. These are either available online at the town's website or in the planning department at town hall as

noted in the information presented here. More recent materials directly related to the evaluations in this report, however, are attached.

Requested Use Permit, Background, Report Framework and Framework for Planning Commission CUP Consideration and Action

The CUP application is to permit a total of 23,380 sf of floor area (FA) and 63,605 sf of impervious surface (IS) area on the subject residentially developed, 229-acre western hillside property. Without the use permit, floor area on the 229-acre parcel would be limited to 10,121 sf and IS could not exceed 21,807 sf. These are the limits for parcels up to 10 acres in size or larger without a CUP.

Section 18.48.010, Table No. 1, of the zoning ordinance sets the basic FA and IS requirements for parcels in the town. It includes the provision that for parcels of 10 acres or larger, FA and IS can exceed the table limits, but only when a CUP is granted by the planning commission in accordance with Chapter 18.72 "Conditional Use Permits" of the zoning ordinance. The necessary findings to grant a CUP are set forth in Section 18.72.130 of the zoning ordinance and are listed and discussed later in this report.

The plans and materials listed below represent the CUP application now before the planning commission. These plans and materials are clarified in the attached November 21, 2011 statement from the applicant. This 11/21/11 statement is also a formal part of the revised CUP application and was prepared to address specific questions raised during the preliminary town reviews conducted by the planning commission and ASCC in August. The statement addresses Williamson Act considerations, the proposed service driveway modifications, trees planted in the Portola Road setback area and along the southerly parcel boundary, scope of agricultural uses in the meadow including fencing and irrigation, building design specifications and desired time frame for making the FA and IS improvements shown on the plans. The applicant is specifically requesting five years to exercise all aspects of the permit.

The enclosed revised plans, unless otherwise noted, have been prepared by CJW Architecture, have a revision date of June 21, 2011, and were submitted with the attached July 26, 2011 letter from Kevin Schwarckopf, CJW Architecture:

Sheet: A-0.0, "Title"

Sheet: A-1.0, Site Plan – All Projects, 12/1/11

Sheet: T-0.1A, Title Sheet: Cabana - Project #1, 6/18/10

Sheet: A-1.1A, Site Plan – Cabana, 10/4/10

Sheet: A-2.1A, Cabana Floor Plan & Elevations, 6/16/09

Sheet: T-0.1B, Title Sheet: Greenhouse – Project #2, 7/20/10

Sheet: A-1.1, Site Plan (Greenhouse), 1/14/09

Sheet: A-2.1B, Main Floor Plan (Greenhouse), 2/23/10

Sheet: A-3.1B, (Greenhouse) Exterior Elevations, 2/23/10

Sheet: A-1.1C, Site Plan (and building elevations) – Guest House (studio), 7/20/10

Sheet: A-1.1D, Site Plan (and building elevations) – Barn, 7/20/10

Sheet: A-1.1E, Site Plan (and building elevations) – Ag. Building, 12/1/11

Colors and materials boards. Colors and material boards for the Cabana/Entertainment and Greenhouse buildings, both dated 2/20/09, were found conditionally acceptable, along with the building plans, by the ASCC during the architectural reviews conducted in 2009, 2010 and again in 2011. *(Note: the colors and materials board for the Cabana/Entertainment building also sets the basic finish framework for the guest house and art studio structures.)* The finish board for the stable building, dated 7/25/10, was considered and found acceptable by the ASCC in October of 2010. These boards will be available for reference at the public hearing. The finish board for the proposed Agricultural building, dated 8/19/11, is a photo representation of the Automotive Innovation Laboratory building on the Stanford University campus. After inspection of the story poles, the ASCC found this building concept acceptable at the August 22, 2011 ASCC meeting, but requested a detailed colors and materials board. This board, dated 9/30/11 has been prepared and would be presented for final ASCC consideration when building plans for the Agricultural building are considered pursuant to the tentative approval conditions recommended in this report.

Lighting plans and light fixture cut sheets. Preliminary lighting plans and light fixture cut sheets have also been provided by the applicant. While these respond to various ASCC review comments, final lighting plans would be considered and acted on by the ASCC pursuant to the tentative approval conditions recommended in this report.

Composting toilet plans, gray water sink. The Agricultural Building is proposed to have a composting toilet and the specifications for the *Biolet 60 XL Waterless Toilet* are attached. It is also to have a gray water sink. The details for both the sink and toilet would need to conform to all health department standards and this would be addressed when specific agricultural building permit plans are submitted for town processing.

Northerly Driveway "Connection" Access Analysis, BKF, October 12, 2011. This attached technical report has been prepared to facilitate understanding of the desired changes to the northerly service drive access connection to Portola Road. The analysis has been reviewed by the public works director and his review is discussed later in this memorandum.

The "Cabana" and "Greenhouse" plans are the same as generally found acceptable previously and are the plans that were before the commission with a recommendation for approval in January of 2011. The guest house plans with art studio and the stable plans are the same as were considered in 2010. These plans and the proposed locations were extensively evaluated during the 2009 and 2010 reviews and while there were no critical issues with the sites for building designs, complete CEQA reviews were not finalized due to lack of complete communication with the applicant and project design team regarding plan intent and the overall scope of the application.

The planning commission conducted a preliminary review of the revised application at its August 17, 2011 meeting. The commission then, on August 22, 2011, joined the ASCC in a site meeting, particularly related to the proposed fruit and vegetable agricultural uses in the meadow preserve, the proposed agricultural building, and the proposed changes to the northerly service access driveway. Story poles were placed to model the agricultural building location and flags set to identify the desired driveway changes. The poles and flags remained in place at the time this report was being prepared.

The August 11, 2011 report prepared for the 8/17/11 commission meeting and meeting minutes are attached for background and reference. As pointed out in the report, the key focus of the revised application is on the uses proposed for the meadow preserve area. Also attached for background and reference are the August 18, 2011 report prepared for the joint ASCC and planning commission site meeting and the minutes of the 8/22/11 joint meeting.

As noted in the August 22nd meeting materials, the main focus of the site meeting was on the proposed meadow uses. After the formal meeting both commissioners Gilbert and Von Feldt visited the stable and guest house/art studio sites with the project architect, as they were not present at previous meetings where other commissioners and ASCC members benefited from visiting these sites. After their visits, both forwarded emails to staff stating that they did not identify any concerns over the locations or potential visual impacts of these other buildings, but one question was raised relative to the guest house and art studio. Specifically, there was a concern over potential need for tree removal. The project architect, by email dated 8/25/11, confirmed that while some tree trimming may be needed for fuel management, no trees would be removed. This should be considered and confirmed at the time the ASCC reviews final plans for the buildings pursuant to the tentative approval conditions recommended in this report. Other email comments from commissioners Gilbert and Von Feldt focused on plan conformity with meadow preserve provisions of the general plan and these issues are discussed further in this memorandum.

The only changes to the above listed CJW Architecture plans since the August planning commission and ASCC meetings are as follows:

Sheet: A-1.0, Site Plan – All Projects. This sheet was revised to make it clear that there is no road proposed along the southerly property boundary and also to clarify which on-site roads/drives are proposed and existing. The proposed new road/drive extensions are only to the agricultural building. The others changes are relatively minor improvements to existing drives to accommodate the access to the new buildings as analyzed during 2009 and 2010 project reviews, mainly to ensure emergency fire vehicle access. Limitations associated with access improvements were developed with conditions proposed with the January 2011 report to the planning commission and these are also included with the conditions tentatively recommended herein.

Sheet: A-1.1E, Site Plan (and building elevations) – Ag. Building. The statement on this sheet was revised to be consistent with 11/21/11 statement from the applicant, particularly regarding the proposed non-haying agricultural uses and the matter of “no pesticides” and only “organic fertilizer.” Also, an inaccurate note relative to a southern parcel boundary access drive was deleted and the plan was clarified relative to there being no plan for a drive along the south parcel boundary line. The floor plan has also been revised to be consistent with current plan for use of the composting toilet.

Attached for reference and background are the December 8, 2010 planning commission staff report prepared for the December 15, 2010 public hearing and the January 12, 2011 staff report prepared for the January 19, 2011 planning commission meeting. The December 8th staff report includes an “Exhibit A” that lists a number of background documents relevant to the project analysis. These are not included with this report but are available online (mainly the referenced meeting minutes). Other documents are available in the planning department at Portola Valley Town Hall.

The staff reports, meeting minutes, and referenced materials describe the issues and concerns that have been evaluated by staff and considered with the applicant during the course of assembling the revised use permit application into form for planning commission public hearing. The attached proposed conditions exhibit dated December 2, 2011 was developed based on this data and the additional analysis and reviews are discussed in this report. The sections that follow address specifically data developed based on the August 2011 meetings and, particularly, concerns over the meadow area proposals. These include:

- Breakdown of the existing and proposed floor areas as shown on the proposed plans.
- General plan evaluation relative to conformity with the meadow preserve provisions.
- Water use issues and spring water rights of the applicant/application property.
- Visual impacts of the proposed meadow agricultural uses and the agricultural building.
- Northerly service driveway proposed changes
- "Native" plant materials on the west side knoll
- Williamson Act

It is also noted that on October 18, 2011, the town planner and planning manager met with representatives of the Midpeninsula Regional Open Space District (MROSD) to advise them of the current CUP application status and also of the town council meeting scheduled for October 26, 2011 on the planning commission's meadow preserve questions (see discussion on this matter below). No specific comments have been received from MROSD on the revised application, but comments are anticipated as the public hearing process continues.

Existing and Proposed Floor Areas

Based on the above listed plans, the revised CUP proposes the following existing and new floor areas for the subject 229-acre property (see Sheet: A-1.0 for the details of the proposed areas):

Floor Areas:

Existing main residence with detached garage	7,808 sf
Existing agricultural/winery building ¹	1,787 sf
<i>Proposed greenhouse</i>	3,420 sf
<i>Proposed entertainment/cabana building</i>	2,285 sf
<i>Proposed guest house</i>	740 sf
<i>Proposed art studio</i>	1,400 sf
<i>Proposed horse barn</i>	3,540 sf
<i>Proposed agricultural building</i>	2,400 sf
<i>Total proposed floor area</i>	23,380 sf

Impervious Surface (IS) Areas:

Existing paved and other IS areas	
including existing reservoir structures	31,614sf
Existing tennis court surface	6,766 sf
<i>Proposed greenhouse IS</i>	675 sf
<i>Proposed entertainment/cabana building IS</i>	1,550 sf
<i>Proposed guest house/art studio IS</i>	7,000 sf
<i>Proposed horse barn IS</i>	8,000 sf
<i>Proposed agricultural building IS</i>	8,000 sf
<i>Total proposed IS Area</i>	63,605 sf

Thus, the application requests approval for 13,785 sf of new floor area and 25,225 sf of new impervious surface area. This is 600 sf more floor area than the plans considered at the December 15, 2010 planning commission public hearing and 6,000 sf less impervious surface area. These changes are directly related to the revised plans for the agricultural building and access to the building. As noted above, without the use permit, floor area on the 229-acre parcel would be limited to 10,121 sf and IS could not exceed 21,807 sf. Again, these are the maximums for all parcels 10 acres or larger without the granting of a conditional use permit.

General Plan--Conformity with the Meadow Preserve Provisions, Town Council October 26, 2011 review of Planning Commission Questions

On October 26, 2011, the town council considered the questions posed in the attached October 3, 2011 memorandum from the planning commission relative to meadow preserve and open space preserve provisions of the general plan. Also considered were the comments in the attached October 25, 2011 letter from the applicant and public input as noted in the attached minutes from the October 26, 2011 council meeting and the attached September 5, 2011 memorandum from the conservation committee.

The council concluded that the general plan provisions that existed at the time the subject CUP application was originally filed in 2009 should be used to judge the application, and these provisions are in the October 3, 2011 commission memo. The provisions state that the meadow preserve should be kept "largely open" and "present agricultural uses maintained." (It is also noted that the council resolution on the clarifications of open space preserve provisions was approved in May of 2010 and after filing of the subject application.)

In considering the planning commission's requests, the council noted that both the previous version of the general plan language, as existed in 2009, and the 2011 amendments were not fully clear and that further discussion and likely revision should be considered. This is to be a matter for future council and commission review.

In considering the general plan language, the council indicated that a small structure in the meadow area would not be in conflict with the "largely open" provisions and also indicated that some broader than haying only agricultural uses could be considered, see specifically the comments by council member Toben. Council members left it to the commission to consider the specifics of any plan for agricultural uses and acknowledged that the commission's task, given the general plan language, was like "trying to fit a square peg into a round hole."

In any case, staff believes that based on the council general plan discussion for the meadow preserve, consideration of the agricultural building is possible, as is other than haying agricultural uses. Thus, we have continued to evaluate the proposed plans as set forth in the following sections of this report.

It is also noted that during the course of the council discussion, it was indicated that the general plan language as it existed in 2009 relative to the meadow preserve had been in place for at least 20 years. In fact, they were in the plan since May of 1970, i.e., over 40 years, and were reflective of agricultural uses in the meadow as of that time. These uses included haying, and the air photo record shows that the scope of mowing and haying

extended over the west side, including the area of the knoll discussed during the August 22, 2011 site meting

Water Use Issues and Spring Water Rights of the Applicant/Application property

Dr. Neely and CJW Architecture provided data relative to the rights to spring water that has been serving the property since at least 1968 and likely well before that time, as it has been serving the existing, "historic" Connelley-Melchor house, recognized in the town's historic element of the general plan, and the water reservoirs on the property. The historic house was built in 1914 and over time has been restored and upgraded by the previous owner, Gregory Melchor, and Dr. Neely. The town planner and town attorney have reviewed the data and data in town files and conclude that the deed documents confirm that the 229-acre parcel owned by Dr. Neely does have fairly broad rights to spring water over the lands west and above his property now owned by the Mid-Peninsula Open Space District (MROSD). The following comments summarize the review.

History of subdivision and land sales. During the 1960's essentially all of the lands outlined on "Vol. 50 PG.79" of county records, i.e., from Portola-Alpine Roads to Skyline Boulevard, excluding the four parcels in the area of the Villa Lauriston, were part of Rancho Corte Madera and owned by Hare, Brewer & Kelley. What are identified as Parcel 1 and Parcel 2, on the assessor's maps for the area were in one assessor's parcel with a total area of 686.6 acres. Our assessor's data shows the Hare, Brewer and Kelley ownership continuing through much of the 1970's. Sometime in the 70's the parents of Gregory Melchor acquired the 686.6-acre parcel and, eventually, joined with Frank Aries to pursue subdivision (town file X6D-111), recorded January 27, 1981. This subdivision created two parcels. After the subdivision Gregory Melchor obtained "Parcel 2" (i.e., the subject 229-acre parcel) from his parents. Aries attempted to subdivide Parcel 1 (449-acres) without success (town file X6D-124). Eventually, Parcel 1 was sold to Bob Slobe. He pursued a subdivision (X6D-155). This was for the purposes of carving out a 20-acre home site and selling the remainder to POST. This subdivision was approved. The 20-acre home site was sold to Derry Kabcenell and he has developed a home on it. The remainder of the lands, i.e., 429-acres, are now part of the Windy Hill Open Space Preserve and is the land immediately south of the subject property.

Sale of "Parcel 2" to Neely/Myers (Spring Ridge LLC). Dr. Neely provided a title report from First American Title Insurance Company that shows that Parcel 2, the subject application property, was transferred to Spring Ridge LLC in June of 1995. The title report identifies "Parcel 2" as "Parcel I," and the 1981 subdivision "Parcel 1," now owned by MROSD, as "Parcel II." It also references "Parcel III" as described in the grant deed dated April 9, 1968, "Book 5456, page 529," which appears to be most all of the lands of the original Rancho Corte Madera holdings.

Easement rights over adjacent lands (i.e., lands adjacent to 229-acre Spring Ridge parcel). The title report states that Parcel I (Spring Ridge LLC), created by recording of the 1981 subdivision, has ingress and egress easement rights over Parcel II (MROSD) until such time as a dedicated public street is extended to the parcel from Portola Road. The title report also states that Parcel I has easement rights for utilities, water pipelines, water wells, spring diversion dams and facilities of "every kind and description" which were in place on the date of the land transfer and the right to maintain, restore, replace or remove any of the lines and facilities.

The water spring is on what is shown as "Parcel 4" on the title report map and this spring has been feeding the existing water reservoirs on the Spring Ridge property since at least the Melchor ownership and likely well before, as noted above, as it serves the historic house on the property. "Parcel 4" is also part of Parcel III as described in the 1968 grant deed and, therefore, is part of the "adjacent lands of the grantor."

Dr. Neely has also provided the deed exhibits from February of 1981 and February of 1984, both referencing the 1981 recorded subdivision and the 1968 grant deed. The documents further state the easement and spring rights.

Based on the title report provisions and the deed exhibits Spring Ridge Parcel I has easement rights to the spring water and related water improvements as well as other significant easement rights over the adjacent lands, including the MROSD parcel from the 1981 subdivision.

Existing and proposed spring water usage. The existing and proposed use of the spring water is described in the November 21, 2011 statement from the applicant. There is no pumping and water flow is by gravity. The existing spring and on-site, i.e., Neely property, reservoirs supply the existing "historic" residence and also provide water for the existing vineyards. They would provide water for the proposed agriculture uses as explained in the 11/21 statement. Currently, Dr. Neely has not had any water usage issues and has experienced a constant rate of flow from the spring that has been measured at 20-gallons per minute. The spring water would also serve the new accessory buildings on site.

The existing on site storage capacity in the two existing reservoirs is roughly 110,000 to 120,000 gallons. Two 10,000-gallon tanks would also be installed uphill at the site of the proposed cabana to provide stored water for the cabana for fire safety to meet requirements of the fire marshal. The scope of added water use for 7-acres of dry farmed crops would be minimal as explained in the 11/21 statement and also based on experience with the existing vineyard operations.

Conclusion. Based on the foregoing data, we conclude that water usage impacts of the project would not be significant. The applicant has demonstrated long-standing rights to the spring water as the water flow currently exists. The water is not pumped and would continue to be fed to the property by the existing water system. There would be some additional storage for fire safety, but this would not require constant replenishment and the draw from the various accessory buildings would not be significant. If, however, the plans would change to call for pumping, then further environmental analysis would be needed and a permit amendment required.

Potential Visual Impacts of the Proposed Meadow Agricultural Uses and the Agricultural Building

On November 17, 2011, in light of planning commission preliminary review and town council consideration of the general plan provisions, as discussed above, we conducted a visual analysis of the meadow area. A number of photo images were taken relative to the proposed boundary for haying and other agricultural uses and the story poles set for the proposed agricultural building. The images consider views from the southerly entrance to the property and open space district parking lot and views from the public trail on the west side of Portola Road. Views were also considered from the southerly boundary line between the subject property and the property of the MROSD. The images from the visual

analysis will be presented at the December 7, 2011 planning commission hearing. A summary of our findings follows.

Non-haying agricultural uses. Photos were taken to show the transition between the proposed haying and other, new agricultural uses as shown on the project plans. The images cover both the main meadow area and the west side, generally behind the oaks.

The break between haying and the other possible agricultural uses would occur at about elevation 512 to 520 as shown on plan Sheet: A-1.1E. The air photo on this sheet shows oaks on both the west and east side of the meadow that can be readily viewed in the field to set the break line. It is at a point where the plantings would not be highly visible from the open space district parking lot entrance at about elevation 535. Even from the trail, views are screened for the most part and the slight elevation break results in truncating the view to the planting area. The depth of the proposed non-haying agricultural area from south to north, i.e., to the agricultural building, is roughly 300 feet. The depth of the meadow/hay area including Neely lands and the open space district lands is about 630 feet or over twice the depth of the "other" agricultural area. The open meadow would be the dominant view from the open space district parking lot entry and from the most view sensitive sections of the trail. If the point of transition is handled appropriately, i.e., not a straight line of plantings, the proposed agricultural use area should not result in significant visual impact to the meadow, and this is the case even if there were openings along Portola Road with trimming or thinning of some trees along the frontage of the Sequoias and MROSD properties. The same is the case for the west side, where oaks already provide for a transition from the more open meadow area to the west side where the slopes descend to the Sausal Creek greenway. In addition, the views across the meadow and to the slopes of the western hillside would not be impacted in any significant way as they frame the meadow and would continue to do so based on our the view analysis.

Agricultural ("Ag") building. The 2,400 sf Ag building with 1,200 sf porch is sited roughly 85 feet from the northern property line at the location between the fault setback zones and at the site originally recommended by staff. It is roughly 950 feet from the entrance to the open space district parking lot. The building would be at elevation 495-497 and have a height of 25 feet. The ridge peak therefore, would be at elevation 520-522. The elevation at the parking lot entry is 535 feet, or over 10 feet higher than the roof peak. A section was drawn from the entry to the building and, as demonstrated by the story poles that have been in place since August at the proposed Ag building site, a portion of the building and roof would be visible due to the gentle slope across the southern meadow. Even if the building were moved to the 25-foot setback line, it would still be found very close to the 495-foot elevation and would not disappear. At the same time, existing planting along the parking lot, distance relative to public views, and proposed finishes would reduce visual presence. Further, even low crops and some fruit trees could eventually screen views, as is the case with the "Butler" barn building on the Shawn Jelich property to the north. This barn is also visible from southerly locations of the meadow.

Conclusion. We have concluded after the visual analysis that the proposed building and non-haying crops locations, if carefully designed and managed, pursuant to the ASCC detailed plan review conditions recommended herein, would not adversely impact the visual character of the meadow preserve and would be in keeping with the character and consistent with the provision of the general plan, particularly as considered by the town council at its October 26, 2011 meeting.

Proposed Changes to Northerly Service Driveway

The 2010 project evaluations with the town attorney established the right for the existence of this driveway connection. As to the proposed changes, the town planner met with Howard Young to review new access plans and seek his comments relative to the attached engineering analysis completed by BKF dated 10/12/11. Mr. Young provided a preliminary review, noting any improvements would need an encroachment permit, and also would have to be to town standards, with protection for the existing trail. He advised that he would look further into the matter and, based on his further analysis, he did concur that there were safety issues relative to the turning movements and that some improvements would be needed for safe service truck access and emergency vehicle access, including fire vehicles, as the proposed agricultural building is over 350 feet from Portola Road. The fire marshal has confirmed that access would be needed and also that if the agricultural building is over 500 feet from a fire hydrant a new hydrant would be needed.

Mr. Young's additional review included driving the existing access with the town's 20-foot flatbed truck. The BKF analysis was based on a 30-foot truck. Mr. Young concluded that with some widening to the south, the existing driveway connection might be made safe. It is noted, however, that in any case, the existing catch basin would need to be addressed in any widening plan.

In researching the history of driveways to parcels along Portola Road, we found that approval of the plans for the neighboring Jelich barn did provide for elimination of the northerly-most driveway connection, but allowed for two other driveway connections, including the one closest to the subject property. The "third" driveway has not been eliminated and the town intends to follow-up on this matter and the permit conditions.

In any case, the following are noted relative to the other key properties on Portola Road and what they have been permitted relative to driveways.

Jelich (Zelda/Shawn). This 1.9-acre parcel has 340 feet of frontage on Portola Road. It now has three (3) access points, but only two were actually permitted by town approval actions. One was to be eliminated with the 2001 barn approval, i.e., the northern most access. The barn on the Jelich property is 2,600 sf and is actually larger than the main house, which is 1,898 sf. The total FA on the 1.9-acre site is 5,335 sf and just within the 5,635 sf limit. Staff did not support the barn size or design, but the ASCC concluded it was "rural" and fit the site and area. Staff size concerns had to do with the ability to find the 2,600 sf barn accessory to the smaller house. Staff also sought to limit access points, and the ASCC did approve the plans allowing for two access points, but requiring that the northerly, wide asphalt driveway be eliminated.

White (Jelich Apple Orchard parcel). This 14-acre parcel has 640 feet of frontage on Portola Road. With the CUP for added floor area and the other site uses, the town approved two access points and in 2002 actually permitted consideration of changing the main access to near the Chilean Woodchopper's house. In 2005, however, the CUP (X7D-156) was amended to remove this option, as it was no longer desired by the applicant. Thus, two access points are allowed with the CUP and both now exist. The CUP allows for a total of 17,500 sf of floor area, and the Williamson Act contract executed with the town shows the area for a future house site in the contract documents. The Williamson Act contract was executed with the town in November 2001. The CUP for the added floor area and other improvements was approved by the planning commission in September of 2002. The permit

was amended in 2005 to address changes relative to the Chilean Woodchopper's house and also update floor area numbers, including changes to reflect numbers actually used. The permit remains valid and still allows for the 17,500 total square footage, including the "future" house site.

Spring Ridge (subject) property. The 229-acre parcel has 490 feet of frontage on Portola Road. It is, however, noted that the main access to the site is over an easement on the MROSD property and that access intersection with Portola Road is approximately 750 feet from the northern property boundary common with the Jelich (Shawn/Zelda) property. Thus, there would be at least 700 feet between access points, and if the agricultural uses and building are permitted, using the existing northerly access is the shortest service access to the main road. Otherwise, an onsite access would be needed and that would add considerably to the improved driveways on the property and require the access to be from the south side of the meadow and along or across the meadow.

Thus, the issue is should the applicant be permitted to eliminate the existing northerly drive connection to Portola Road and create a new connection for safer truck access, or should he be permitted to make improvements to the existing drive that actually blends with the driveway serving the Jelich (Zelda) property. The other, smaller properties in the meadow/orchard preserve area each have been permitted two driveway access points, distinct and separate from their neighbors. The second access on each is related to barn accessory uses.

Conclusion. Based on the above, the town planner and town engineer concur that the applicant should be permitted to make improvements for safety and emergency vehicle access if the agricultural building and new agricultural uses are permitted. The improvements, however, should be the minimum necessary and with minimum potential for impacting the visual conditions along the Portola Road corridor. The public works director would address the final design in terms of safety of turning movements and crossing of the catch basin. The ASCC would judge if creating the new separate access is less visually intrusive than widening the existing access point.

The current driveway flare along the Jelich property, which extends to the existing Neely driveway, is estimated to be at least 70 feet long by the public works director. The approved Jelich plan showed a 12-foot wide driveway extending to a flare connection to Portola Road, all in front of the Jelich property, with a flare width of 40 feet. If this were installed according to the approved plan, with elimination of the northerly driveway connection, and the area between the Jelich and Neely driveways returned to a more native condition, then the visual impact of the wider Neely driveway may be less than having this added to the 40 feet, with a full continuous width of likely over 80 to 90 feet or more. The flare shown on the proposed Neely site plan is roughly 40 feet.

In addition to the above, it is recommended that any final approved design for driveway improvement only proceed with development of the agricultural building.

"Native" Plant Materials on the West Side Knoll

Conservation committee comments raise concern over the west side "knoll area" and the existence of tarweed, characterized as "a native late summer and fall blooming composite," lupine and wild roses. The comments also suggest that the area appears to be undamaged by any previous agricultural use. This area has been used for at least haying and air photos

from as far back as 1948 confirm periodic mowing of the entire meadow area including the "knoll." Thus, it is not likely that the current materials are native/indigenous to the knoll.

The applicant has taken issue with the conservation committee comments as noted in the attached 11/21/11 statement. We have checked the referenced UC site and it indicates that Tarweed is a "pest" in the UC Agricultural & Natural Resources database. It is also so identified in other state databases. It is found in areas disturbed by previous activities including areas used for grazing or other agricultural uses. Thus, it is difficult to conclude that this knoll is pristine or that any wild roses and lupine are native/indigenous to the site. The applicant also states that if the area is not used for agricultural uses, it would be managed with the installation of less "noxious" native grasses.

In any case, the historic data make it difficult to conclude that the current knoll plant materials represent a native environment that has not been disturbed by previous activities. The conservation committee also did confirm that the main part of the meadow had been previously disturbed, and this includes the area proposed for other agricultural uses and the agricultural building. Lastly, the plans do not show the other agricultural uses extending to the Sausal Creek riparian corridor. This would also be verified when the ASCC considers the specific plans for the non-haying agricultural uses.

Williamson Act

The 11/21/11 statement from the applicant advises that the intent has been to pursue a Williamson Act contract with the town after action on the CUP. As noted previously, in reports to the planning commission, the town attorney has advised that the Act contract should be considered separate from the CUP process. Additional data on the Act and how it might be applied for the subject property is set forth in the attached October 18, 2011 letter from the town planner to the applicant.

During previous public comments on the application, comments have been offered that the Act is not a tool that should be used to guarantee long-term open space on the property, particularly for the meadow preserve. The town attorney has advised that the CUP associated with added FA and IS provides limited nexus for requiring any open space dedication. Specifically, she has advised that the town might consider open space of a similar size to the FA and IS areas over current limits. This would mean roughly 1.25 acres might be considered. We believe that the limits that would be set with an approved use permit, as proposed herein, would result in the majority of the property being left in its current condition, at least as long as the use permit uses are pursued or in place.

In any case, if the applicant elected to pursue greater development of the property, he would be required to seek changes to the permit or possibly a subdivision application. Even a 1.25-acre dedicated open space area would have little if any impact on such possible future changes or application. And, if a subdivision were to be considered, and this is not the intent of the applicant, the town would have the ability to exercise considerable design control and capturing of permanent open space lands as has been the case with the Portola Valley Ranch and Blue Oaks developments.

Ordinance Requirements

In order to grant the requested Conditional Use Permit, the planning commission must make findings in support of the following requirements of Section 18.72.130 (zoning) of the Municipal Code:

1. The proposed use or facility is properly located in relation to the community as a whole and to land uses and transportation and services facilities in the vicinity.
2. The site for the proposed use is adequate in size and shape to accommodate the proposed use and all yards, open spaces, walls and fences, parking, loading, landscaping and such other features as may be required by this title or in the opinion of the commission be needed to assure that the proposed use will be reasonably compatible with land uses normally permitted in the surrounding area and will insure the privacy and rural outlook of neighboring residences.
3. The site for the proposed use will be served by streets and highways of adequate width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
4. The proposed use will not adversely affect the abutting property or the permitted use thereof.
5. The site for the proposed use is demonstrated to be reasonably safe from or can be made reasonably safe from hazards of storm water runoff, soil erosion, earth movement, earthquake and other geologic hazards.
6. The proposed use will be in harmony with the general purpose and intent of this title and the general plan.
7. When this title or the town general plan specifies that a proposed use shall serve primarily the town and its spheres of influence, the applicant shall have demonstrated that a majority of business of the proposed use will come from the area immediately or within a reasonable period of time. In making such a demonstration, all similar uses in the town and its spheres of influence shall explicitly be taken into consideration by the applicant.

Review and Evaluation

The following comments are offered to assist the Commission in evaluating the request in terms of compliance with the provisions of Municipal Code (zoning) Section 18.72.130. Most of the comments that follow are based on the review evaluations set forth above and in the referenced documents associated with planning commission hearings, particularly those in December of 2010 and January of 2011.

1. **Proper Community Location.** The proposed uses are to be accessory to the primary residential use on the property that is authorized by both the general plan and zoning ordinance. The key issues have to do with the scope of added floor area (FA) and impervious surface (IS) area. Since the parcel is well over 10 acres in size, with a CUP added floor area and impervious surface area are possible under the town zoning provisions as long as they can be accommodated on the site in conformity with town standards. To be clear, the proposal is for accessory uses to an established and "historic" residential use. This is not a proposal for a subdivision type of development. The plan is for a private estate, residential use on the property, including some additional agricultural uses. Consideration of the scope of uses proposed is possible due to the

size of the property, and location that is well removed from more dense residential neighborhoods.

Guest houses, entertainment buildings, pools, stables, greenhouses, and other accessory structures and agricultural uses are allowed on residential properties in the town and are commonly found on them. This property, due to its size, is seeking the use permit for added FA and IS area for a combination of uses that would not typically be found on smaller parcels. Due to its significantly larger size, the scope of proposed uses can be better located to minimize both site and neighbor impacts than would be the case with smaller parcels. Further, as has been demonstrated by the site meetings, the buildings have been sited to ensure minimum potential for off site visual impact including considerations of light spill, colors and materials and other design factors. Also, all sites can be developed with minimum grading and, since the application was originally submitted in 2009, the plans for the stable and corral area have been significantly modified to eliminate the riding ring and associated grading impacts.

Also, as evaluated above, other smaller sites with Portola Road frontage have agricultural and related barn uses that are possible due to the parcel size and location. Thus, we believe that the commission can find that the parcel is properly located for the scope of uses. The key issue has, for the most part, been the matter of conformity with the general plan meadow preserve provisions and this has been discussed above and is evaluated further below.

2. **Adequate Site.** Based on the recent site meeting in August, the above analysis, particularly relative to the agricultural building, and analyses in the referenced materials associated with the 2009 and 2010 project reviews, we believe that the site, with appropriate conditions, is adequate to accommodate the proposed scope of uses. It is noted that there are sufficient areas free of geologic and slope constraints for the uses and that only minor internal drive improvements are needed to the existing road system to accommodate access to the cabana/entertainment building site, the site for the guest house and artist studio and the stable. Further, only minor driveway improvements are needed along the north side of the meadow from the existing gate to the proposed agricultural building. The reviews by the town geologist, including the comments in the 8/11/11 report, and fire marshal also support the conclusions of site adequacy. Nonetheless, a number of conditions are proposed relative to final review of detailed plans for each CUP project element. These include the need for a new fire hydrant if one is not within 500 feet of the agricultural building at the time it is before the town for building permit approval.
3. **Adequate Local Streets.** The planned uses are accessory to the main residential use of the property. They are largely to support the existing residential use and have very little potential for increasing demand on local streets. The current scope of property use, including the existing vineyard/winery use regulated by CUP X7D-151, has no history of problems associated with use of local streets and none are anticipated with the range of uses and structures proposed. While the planned agricultural uses would require some improvements to the northerly service access drive for safety and emergency access to the agricultural building, harvesting is estimated to require one to three truck trips per week, but only during the harvest season. There is no proposal for harvest sales on site and, thus, there would be no traffic associated with such sales.

4. **Impact on Abutting Property.** During the course of the 2009, 2010 and 2011 special site visits with planning commissioners and ASCC members, the relationships to adjoining properties were considered and it was concluded that with the proposed designs and appropriate conditions, the proposed structures would have minimum potential for impacts on abutting properties. In addition, the 2009 and 2010 ASCC reviews included considerations of visual impacts beyond adjoining parcels and it was concluded, again with conditions, that impacts would be minimum. The conditions originally crafted relative to these matters are contained in the attached tentative conditions exhibit.

The August 2011 site visit provided the opportunity to evaluate the proposed story poles set to model the agricultural building. It has now been sited as recommended by staff to be at the north end of the meadow, at the lower elevations so that visual relationships are more to the barn on the adjacent Jelich parcel than the meadow or the views from the entrance to the open space district parking lot or public trail. The distance, elevation differences and design considerations, including building form, proposed colors and materials, etc. were found by the ASCC to be conditionally acceptable with minimum potential for off site impacts.

Based on the foregoing, we believe the planning commission can find that the proposals would have minimum potential for impacts on adjoining parcels or the uses allowed on these parcels.

5. **Safety from Natural Hazards.** The proposals, as evaluated by the town geologist, fire marshal and health officer have been found conditionally acceptable in terms of safety from natural hazards. Their recommended conditions have been incorporated into the proposed CUP conditions. Further, other proposed conditions ensure that all uses would be sited in conformity with town geologic policies and regulations and provisions for fire safety, including adequate water supply and conformity to the recently adopted town fire resistant building standards. It is also noted that the most recent plans move the agricultural building to a location that is outside of the fault zones, thus addressing staff's key concern relative to this finding.
6. **Conformance with the Zoning Ordinance and General Plan.** During the course of the 2009 and 2010 project reviews, the planning commission considered the various aspects of the proposal and found most of the accessory uses, as evaluated in the various reports and also based on the site meetings, to be in conformity with the provisions of the zoning ordinance and general plan. Issues were, however, raised with the proposals for the meadow area and, eventually, these were shared with the town council at the council's October 26, 2011 meeting, as discussed above.

As characterized at the 10/26 council meeting, finding conformity with general plan provisions that existed at the time of the application was filed, or even the amended provisions, is not an easy task. At the same time, the council concluded that the "largely open" provision did allow for consideration of a structure in the meadow and the council also found, in interpreting the general plan language, other than haying agricultural uses to be possible. The commission was left with the burden in defining the specific conditions associated with a structure and other agricultural uses.

We believe that the visual analysis we have completed, as discussed above, does show that the general condition of the meadow can be preserved with the proposed

agricultural building as sited and with careful management of the proposed non-haying agricultural area. A recommended condition of project approval is that the detailed plans for the non-haying agricultural uses in the meadow be presented to the satisfaction of the ASCC prior to initiation of any such agricultural uses. The ASCC would, as is normal, consider potential visual impacts associated with how the uses are proposed to be installed, including fencing, and also review all aspects of planned use management for conformity with the plans, and plan statements that have been provided as part of the proposal. The recommended conditions also call for the ASCC to review and approve all final details for the agricultural building.

During the recent and previous reviews, town plan issues were identified with the planting of redwood trees along the east side of the meadow in the required setback area from Portola Road and also oak trees planted along the south side of the parcel at the boundary with the MROSD property. In the 11/21/11 statement from the applicant, a commitment is made to work with the ASCC to develop a "mutually acceptable" plan for tree removal and/or relocation to address the concerns of the conservation committee relative to redwoods and the other concerns regarding the southern boundary oaks. The plan should simply be to the satisfaction of the ASCC and the ASCC should seek input from the conservation committee in its consideration of any plan. Such a plan should be developed and implemented prior to any new uses in the meadow area, but no later than one year after the effective date of this permit. The applicant has agreed to this specific time frame.

Also during the course of previous project reviews, concerns were expressed that the plans did not reflect the general plan provisions call for clustering of development on the property. These provisions were intended to guide subdivision and PUD type of development plans, and as noted in previous project review documents, with a subdivision, considerably more development would be possible than is proposed with this application. Thus, we still view this as a single, residential estate type of project, with the issues focusing on the adequacy of the site for the planned accessory uses. We believe that the review efforts to date, including particularly those of the ASCC, have concluded that the structures and uses as planned, subject to the tentative conditions recommended herein, would be consistent with the general plan for residential use of the property.

7. **Services to the Town and its Spheres of Influence.** This finding does not apply to the proposed CUP, as it is not for a use that would provide services to the town or its spheres of influence.

Environmental Impact

Because of the proposed scope of uses and possible building areas, an initial study has been completed and a Mitigated Negative Declaration is proposed for conformity to the provisions of CEQA. The proposed December 2, 2011 Negative Declaration is available for reference in the planning department at Town Hall. In this case, the applicant has modified the project over the course of town project review to address the concerns that were identified during the review process and it was determined that the revised application with the proposed attached CUP conditions, being the proposed required mitigation measures, were sufficient to address possible environmental issues, rendering them all to levels of "less than significant." This supports a proposed Mitigated Negative Declaration.

There is a noticed 30-day public review period before any action to approve the Mitigated Negative Declaration can be taken. As result, and again as noted above, it is recommended that the commission open the public hearing on December 7th and then, at the end of the meeting, continue project review and the hearing to the January 18, 2012 meeting. It is also requested that at the end of the December 7th meeting, commissioners provide reactions to evaluations provided herein and the recommendations set forth below in the attached tentative conditions document. *(Note: they typical review period for a negative declaration for a project like the subject application is 20 days. We have allowed for a 30-day review due to the Holiday period.)*

Recommendations for Action

As discussed above, the planning commissions should conduct the December 7, 2011 public hearing and then continue review to the January 18, 2012 regular planning commission meeting. A supplemental report will be prepared prior to that meeting that will address any issues from the December 7th hearing and also comments that are received on the proposed Mitigated Negative Declaration.

TCV

Encl.
Attach.

cc. Angela Howard, Town Manager
Sandy Sloan, Town Attorney
Leslie Lambert, Planning Manager
Ted Driscoll, Mayor
Ann Wengert, town council liaison
Dr. Kirk Neely and Ms. Holly Myers
CJW Architecture