

PLANNING COMMISSION MEETING, TOWN OF PORTOLA VALLEY, MARCH 5, 2008, HISTORIC SCHOOLHOUSE, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

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

Present: Commissioners Elkind, Gilbert and McKitterick and Vice Chair Zaffaroni  
Absent: Commissioner McIntosh  
Staff Present: George Mader, Town Planner  
Tom Vlastic, Dep. Town Planner  
Steve Toben, Council Liaison  
Leslie Lambert, Planning Manager

ORAL COMMUNICATIONS: None

REGULAR AGENDA (Items reordered)

- (3) Preliminary Review Site Development Permit X9H-555 for Landslide Mitigation and Deviation Request, 16 and 42 Santa Maria Ave., Hibbard/Lee

Mr. Vlastic reviewed the staff report of 2/27/08 on the site development permit and deviation requests. He said a joint field meeting had been held with the ASCC this afternoon during which reports from the project consultants and Town Geologist's office were heard. Issues included how much rebuilding was possible under the deviation provisions and the economic feasibility associated with the landslide repair to reinstate the lower house and upper cottage. It was clear that some significant fixes were needed for the properties in question but also for neighborhood conditions. Vice Chair Zaffaroni said based on the information from the site visit, some of the material in the staff report regarding stockpiling material was no longer correct.

Commissioner McKitterick asked what was proposed for the upper house. John Hibbard, applicant, said whatever size it was, he imagined an entirely new foundation. He wanted to have the present house replicated more than 25%, which included the garage. The bank looked at this in terms of what the final product was worth and then subtracted all the costs. In this case, there was a particularly high cost for site development. After subtracting all the costs, if it was a negative number, they wouldn't do it. If he could only build a 1,100 sf house, it wouldn't work.

Responding to Commissioner McKitterick, Town Planner Mader said the size was limited by Resolution 500. If the applicant could not achieve an engineered solution, he was limited to a maximum of 25% increase. This was, however, a resolution—not an ordinance. There was a provision for appeal to the Council. A design solution to achieve stability for the neighborhood required some extraordinary consideration. He felt there was a way to do that if that was the direction the Commission wanted to take.

Responding to Commissioner Gilbert, John Hibbard said the residence on 16 Santa Maria was about 2,300 sf, and the one on 42 Santa Maria was about 750 sf. Referring to the staff report, Commissioner Gilbert asked what alternative designs had been considered. Mr. Vlastic said there had been some discussion between the geologists to look at a more involved stitch pier solution; there had not been a full exploration of whether or not the economic feasibility was there and whether it solved the problem. The project geotechnical team concluded that from an economic standpoint and conditions on the site, the mass grading solution was preferable. Staff had hoped a less than mass grading solution could be considered because of the deviation criteria, the disturbance to the site, and the provisions of the site development ordinance. Every time that was suggested, the design team concluded that it didn't meet the feasibility aspects of their equation. Responding to Commissioner Gilbert, he said the biggest issues relative to potential off site disturbance had to do with the stockpiling process. Whether it was 15' or 30', the surcharging on the lower portion of the property was of concern to the Town Geologist. The idea of extending the stitch piers was an important consideration as part of that. There were also concerns about any movement during the process of work in the underlying mass. The Town Geologist recommended a number of steps such as ongoing

monitoring to make sure that if there was any sign of movement, precautions would be taken immediately. Beyond that, there was the matter of length of construction and length of time equipment would be used on the site. Comments from neighbors indicated that as long as it was fixed and prepared properly, they could live with the noise and disturbance. During the early stages of the work, there would be hauling on the streets. During the construction process, it was a matter of 1-2 trucks on site in addition to the loaders. Those would be going on a fairly constant basis during the permitted construction hours. In and of itself, that would generate a lot of impact on site. Monitoring the excavation process and the potential for movement in the slopes up above the excavation and down below were important issues.

Ted Sayre said geotechnically, the main concern was slope movement adjacent to the grading operation either from loading on the ground or during the construction excavations. There had been a number of methods proposed to minimize this concern. The grading was proposed in a staged manner so that the whole width of the excavation would never be opened up at one time; one half would be done, and then the other half. There would also be staged excavation where a small area was excavated and materials were put into that area for geo-grid reinforcement on the slope face. That would be done progressively down the slope. In addition, there would be survey instrument stations put around the top of the excavation as well as inclinometers to measure slope movements. There were threshold movements for these instruments that would trigger ceasing excavation and backfilling excavations should there be movement beyond the limits of the project.

Responding to Vice Chair Zaffaroni, Mr. Sayre said one item that had been discussed recently was changing the alignment of stitch piers along the downhill side of the stockpiled area such that all the area that was used for stockpiling had stitch piers below that could take the loading. The surcharge loading might be less because there would be a lower height of fill there. Some specific parameters had been asked for about thresholds for movement that would trigger remedial action plans. He anticipated an answer from the project geotechs that would be acceptable.

Responding to Commissioner Gilbert, Mr. Sayre said he understood that the foundations that would be put on the new structures would be significantly improved from the previous foundations. They might incorporate pier support or other rigid elements. The structures would be built to current building codes so they would be to a much higher structural standard in terms of seismic ground shaking. There might be improved fire protection measures incorporated as well. There were a number of ways to improve the safety of the residences on the property by meeting current codes. Mr. Vlasic said there was no question on the part of the applicant that they would be building to current codes and upgrading the foundations. Town Planner Mader added that there were some buildings that were structurally strong that could move down a hill as a box even if there had been major ground displacement. There were things that could be done with the structural design of the building in addition to the foundation to ensure there was extra safety if there was ground movement.

Commissioner Gilbert said a lot of time had been spent at the field meeting discussing drainage at the top. There were one or two other drainage areas further down the property. She asked if there were any concerns about drainage and affecting other properties. Mr. Vlasic said the public works director would be looking at that in some detail—particularly where it was taken down to Portola Road.

Commissioner Gilbert asked why the septic field for parcel 42 was on parcel 16. Responding, John Berry said the repair was similar to inverted steps with a keyway at the bottom. At the very bottom of the key was a drainage line for any excess water. You never wanted a leachfield above a subdrain line that could leach into the line. The County preferred both leachfields be downslope from the drainage in the toe of the key. Any drainfield put in the repair upslope would get involved with some of the subdrainage. There would also need to be perc tests. He described what was planned for the leachfield, which was 50' back from the stitch piers. The County also allowed the leachlines to be a little deeper which would allow for shortening of the lines. The area behind the leachfield in the fill area would be compacted 95%. The chance of migrating effluent from soil that had been compacted 95% was pretty remote. The leachfields which would go in the excavated areas were down much lower to allow for gravity flow into that channel. With that combination of

things, he did not think there would be a problem. He said the leachfields were about 16' from the shared property line. The issue was to keep a certain distance away from the drainage of the excavation. Responding to Commissioner Gilbert, he said the lower part of the site was cut on fairly level plane; that was where the leachfields would go. Mr. Sayre said the soil was fractured bedrock, and he did not expect any problems with the perc testing. The County also felt the perc values would be met by the final tests.

Responding to Commissioner Elkind, Ms. Lambert said the sewer stopped at Wayside. Mr. Hibbard said there had been a debate about the sewer on the hill for quite awhile. Commissioner Elkind said she was uncomfortable locating the leachfields and the septic system on somebody else's lot. Mr. Vlasic said he was not aware of where things stood in terms of the feasibility of putting together some kind of sewer options. He added that it was not unheard of to have septic/leachlines on a neighboring parcel. Easements were allowed when there were unusual circumstances. It was not the first choice, but there were other instances that were largely driven by geologic and slope issues where it was impossible to serve an existing parcel with a leachline on its property, and there were no sewer options.

John Hibbard said he was an appraiser and had done some work in the Highlands. The real problem with some of the septic systems was that the sites were inadequate in size to have a proper drainfield. John Berry added that the lines on the drawings were 100% redundancy. If there was a failure, there was another field that could be opened up so the system could be extended.

Commissioner Elkind said she would like to see the whole drainage issue in this area be resolved and fixed. She didn't know whose responsibility it was. She asked the extent to which the Town or neighbors could participate. Town Planner Mader said you would have to go back and see what the conditions were when the subdivision was approved and how well it was looked at. Responding to Vice Chair Zaffaroni, he said the Town Engineer might have been on loan from the County at that time. Mr. Vlasic said some of the things shown on the improvement plans might not be there now. Without knowing the details, it was hard to respond. He understood that the uphill neighbors had taken some actions to take care of some of the problems. Obviously, Mr. Hibbard was taking some actions to direct the water away from where it was coming before. One of the key things was how the water was taken across the property and deposited below.

Mr. Hibbard said the road above his property that he shared with the Hayfields was graded while he was building in 1986 or 1988. That was when the water was re-routed. Responding to Commissioner Elkind, he said he built the upper house in the 1980s. He purchased the lower house after the slide when the homeowners left in 1998. Responding to Commissioner Elkind, he said he approached the Town shortly after the slide to work together to get it fixed. He was disappointed how long it had taken; engineers had been working on it for over 5 years. He spent about \$300,000 to get to this point. Responding to Town Planner Mader, he said no analysis of the landslide problem was done when the landslide occurred.

Responding to Vice Chair Zaffaroni, Mr. Sayre said lowering the stockpiled material to 15 feet would mean lesser slopes on the sides. If the analysis of the need for stitch piers showed that with reduced fill loading there was no problem, his concerns would be addressed. Responding to Vice Chair Zaffaroni, he said the piers took a circular turn toward the southern end right now; it was thought that could be straightened out with a similar number of piers and extended toward the road. That approach made sense. Mr. Hibbard said he agreed. Mr. Berry added that the work took place in six segments. Only when the key was being excavated (segment 2 and segment 5) would there be stockpiling. The dirt would never be there at any given time for more than a week.

Responding to Vice Chair Zaffaroni, Mr. Vlasic said if the questions could be answered in terms of the stitch piers, correction of the fill, clarification of the construction operation, etc., it would probably require a mitigated negative declaration. That would be associated largely with a site development permit. The public review period was 20 days, which was similar to the normal site development permit. Responding to Vice Chair Zaffaroni, he said there were two recognized parcels now. There was an indication from one of the neighbors that she had a title report that discussed that. That would be discussed with the Town Attorney. If

Louise Lane was not going to be used for any access, the question was whether you had to adhere to the setbacks. If you had to adhere to the setbacks, it would probably be a variance matter that would be accommodated with the plans for the development of the garage on the property. There were enough factors that the findings could probably be supported. Similarly for the rebuild of the house, it would be difficult to push the house further away from Santa Maria. Responding to Vice Chair Zaffaroni, he said he did not think that would be altered if there was a decrease in floor area by 25%. The current house encroached into the setback area, and the garage was probably within 10 feet from Santa Maria. With all the constraints, he did not think it would be possible to do the existing square footage without some variance issue. Whether a 2-story house was the best solution was another question.

Responding to Vice Chair Zaffaroni, Mr. Sayre said there was a leachfield line proposed uphill. The concern was for the potential for effluent to travel downslope and arrive underneath the crawlspace of the house. He understood 10 feet was the typical distance that leachfield lines should be kept away from the house. But, since it was an uphill situation in a landslide setting, he had asked the project geotech to weigh in on soil conditions, what areas would be engineered fill, where the slide points were, whether it was advisable to have a leachfield that close in an uphill position from the house footprint, etc. He did not have an answer yet. Mr. Vlasic added that he had only received a verbal comment from the Health Dept. as to the acceptability. They confirmed that the concepts were generally acceptable and that they would need to do the perc tests at the time the soil was exposed. There was nothing in writing at this point. Mr. Sayre noted that the leachfield lines were deeper than normal, which might work in terms of potential problems with the house. Using the map, Mr. Vlasic pointed out the area that the County Health Dept. would need to look at and react to.

Responding to Vice Chair Zaffaroni, Mr. Sayre said after the development occurred, there would be a chance for an increase in peak runoff from the site. That also needed to be looked at carefully. There were a number of ways to reduce and mete out flow.

Steve Toben, Santa Maria, said he wanted to acknowledge what Mr. Hibbard had gone through for the last ten years and his efforts to try to find a solution. He said he lived immediately downhill from the property and had some concerns. His first concern was the risk posed by the stockpile fill on the property and the chance that that situation could trigger more sliding down onto his property. Although there had been representations that solutions were near, there was no written agreement with the applicant on how that problem would be addressed. He did not understand where the top 15' went. If 30' was required as of 2/15/08 and only 15' today, something had happened. A second concern was the monitoring of the fill stockpiles. He was not yet clear on what action would be triggered by news that movement was taking place. He did not know how quickly something could be done and what precisely the nature of the emergency was if that was happening. He would want to know more about that. His third concern was with respect to the timing of the project. He understood the plan was to begin August 1, assuming everything went well. While he had no familiarity with this type of work, if there were any delays, it would carry this job into the rainy season. That would be a matter of great concern. He did not know whether a project like this would justify some type of sanction for failure to complete the job by some date certain. If that was a customary condition, he would be quite keen to explore that with the Commission. His fourth concern was the drainage system on the uphill property. After the 1998 catastrophe, Mr. Hibbard installed two pipes to divert water behind his house and into the drainage channel, which flowed along the northern part of his property. That work had been done without the benefit of a permit but with a verbal okay from Betty Irvine. It was presumably intended to be a temporary fix only that resulted from the critical condition that the applicant was facing. The result was that water accelerated through that channel and concentrated with great force on his property. He strongly requested that as part of an SDP, there be a condition for removal of the plastic pipe and installation of a suitable drainage system that would cross the two properties. This condition would be entirely consistent with the overarching goal of this project. He also entirely supported Commissioner Elkind's suggestion that a more global solution be looked at that would involve the uphill owners as well. His fifth area of concern was that while it was very important that this work be done, it was equally important that it be done well. He had no information on which to make a definitive judgment of the qualifications of the geotechnical team or the contractors. But, this was a matter of great importance to the

entire neighborhood, and he wanted to look at a performance bond as a significant element of the mix. He did not know what was available to private parties. The bond needed to be structured so that if the stockpiles failed and he suffered a catastrophe loss, he would have immediate recourse to the bond. That would also give added incentive to the applicant to make sure the project went well. His sixth area of concern was about the level of residential development that should be permitted on these two parcels now that the slate was basically being wiped clean. His property consisted of two historic parcels. The front parcel had the house, and the back parcel had the drainage channel that was affected by this whole situation. It was about 1.85 acres in total. At some point in the past several decades ago, those two separate parcels were merged probably because the back parcel had so many problems with buildability. The result today was that he a lovely nearly 2-acre parcel which he could not develop on the back end. He felt a merger of parcels 16 and 42 and a single home solution might be worth considering—particularly if there was some bonus floor area that might be wrapped into this when the two parcels were combined. This would take care of a few issues. It would take care of the problem cited about the location of the septic drainfield on a parcel that didn't belong to the septic system. It would take care of the problem with increasing the amount of impermeable surface if two roughly 3,000 sf homes were built—which was quite worrisome. It would potentially involve less grading. The other concern he had with building out these two parcels once the grading work was done was that enormous new loads would be added to parcels that historically had had much more modest loads on them. He was keen to support this with all the proper cautions and monitoring. He thought it was moving in the right direction.

Ken Singleton, Santa Maria, said he was the immediate next door neighbor. The issues Mr. Toben talked about were movement of land from top to bottom. He would appreciate hearing from a geologist at some point that all of the scraping, moving of the land along the side of the property, the reconstituting of that land, restructuring, etc., wouldn't alter the integrity of the sides. With regard to the setback issues, he suspected that that issue might be less relevant to Santa Maria and more relevant to his property. The garage abutted quite close where he imagined the property line was. There seemed to be a lot of room on that parcel—particularly if they were pouring new foundation—to laterally shift things. He was a little confused about the nature of variances that would be allowed, the role of potential deep landslides, and what ultimately could be done on these two parcels. He shared some of the nervousness about 2,000-3,000 sf structures and liability. He did not know what was economically feasible in terms of rebuilding what was there or building a single larger home on one large parcel. There needed to be some interplay about development of that parcel in the neighborhood. Reconstituting the hillside was a major undertaking that was being taken on by a group of individuals—not by some massive corporation with all the resources to do that. Everybody seemed to agree it was really important that this was brought to fruition and the hillside was stabilized. But, he suspected that if it was stopped in the middle, everyone would be worse off. He asked what assurance the neighbors would have that guaranteed getting to the end of that first phase.

Commissioner McKitterick noted that Mr. Hibbard was a client of a partner at his firm some time ago, but that he had not been involved in the matter. The Town Attorney stated he was not precluded from sitting on the Commission for this matter. He said greater square footage was the main issue. His understanding was that with Resolution 500, the only increase in floor area allowed was 25%. He was not unwilling to do that, nor was he necessarily ready to recommend to the Council on an appeal that it consider increasing the amount. That 25% provision had been included in Resolution 500 to give some economic incentive to home owners to improve their property in a way that would increase safety—even if they couldn't achieve an engineered solution. From his understanding, an engineered solution was probably not in the cards here. It was not something he would be adverse to given the size of the undertaking, but he would want to see data on the safety of the resultant houses that were being proposed. He also wanted to know that the economics involved in doing the work here justified a departure from the current square footage. That was the kind of data he would need to know to decide whether to allow a deviation up to 25% and potentially to make a recommendation to the Town Council. A second issue was the status of the Louise Lane right-of-way. He cared little about whatever the Town needed to do to accommodate the applicant. Louise Lane was a trail and not a street. This was an issue that was throughout the Highlands and Wayside area. He encouraged Mr. Hibbard to consider his rights--be it prescriptive easement or adverse possession. Regarding the septic system, he thought the proposed improvements were okay as long as they conformed with all the necessary

requirements of the County and Town and had some post installation testing a year or two later. Regarding drainage, he thought the entire property was going to have to be fixed. That was something that was not unique to this project. The downhill homeowner seemed ready to cooperate, and he [McKitterick] would talk with the uphill property owner. It sounded like the proposed homes would have appropriate foundations, and he was interested in the durability. He didn't want something built that had a 10% chance of being destroyed in the next 10 years by landslide. As far as 1 story versus 2 stories, the Town usually encouraged 1 story. But, on a hillside like that, he wouldn't be averse to a 2-story plan depending on what the square footage was. On stockpiling and monitoring adjacent parcel safety, he said that should all be presented in the proposal with the blessing of the Town Geologist. Regarding timing, he was willing to consider whatever options the Town had to ensure that the project was done in a timely manner and was completed. The Wayside Road paving project for upper Wayside was done in the rainy season and resulted in a failure of the road. Anything that could ensure performance and some kind of recourse for damage to property owners should be looked into. He hoped that the applicant would be using licensed contractors who had appropriate insurance. He would also be willing to work with the applicant on a single home solution. He did not see any reason why that would be discouraged if that was something the applicant wanted to do—especially if it was superior to the current layout.

Commissioner Gilbert said for the square footage of the lower building, she was leaning toward leniency given all the work to make the general slope safer. The increase was pretty close to the 25% limit. She had concerns about the upper building. The work that would be going on to stabilize the slope was underneath, below and to the side of the structure. If a new structure was put in, it was just as susceptible as it always had been to landslides coming from above from the other part of the slope that hadn't slid yet. She was nervous about going to a larger structure there that could be occupied by more people; that increased the safety concerns. Going from 750 to 3,500 sf was a huge increase. She was also nervous about the timing. If the grading was complete and the rain started, surface erosion and impacts on the parcel were concerns. That risk needed to be minimized.

Commissioner Elkind said she would like further information about the feasibility of a single home solution on this site—especially if there was a house site that solved the setback issue and solved the relationship between the septic drainfield and distance from the house. She would also like to see further exploration of whether there was a way to locate a septic drainfield so that it was not so close to the open drainage channel. She would like to see something that came closer to 50 feet, which was the standard for the relationship between a septic drainfield and drainage channel. She was concerned that if the Town rushed to approve this project, some of the very significant environmental complications would not be resolved adequately. The drainage needed to be solved first. Spreading water down the hill was like a loaded gun in terms of the portions that had not yet slid. The Town had to be very careful, and it might not be approved for development this summer. On a site like this, the Town's standard allowance for impervious surface might be too lenient unless there was proof that the drainage situation was well mitigated. She agreed with comments from Commissioners McKitterick and Gilbert.

Vice Chair Zaffaroni said she agreed with the concerns raised by the Commissioners. She said it was her understanding that for both of these structures, it was highly probable that they would be limited to 25%. That was because it was unlikely than an engineered solution could be applied to either of those locations. There had been a lot of question about when you could achieve that engineered solution. She felt it could be achieved in many situations. What made this case especially difficult was the scope of the Pd area, which was so massive. It made the assessment for stabilization very challenging and difficult to achieve. There was also an active landslide that had to be removed before you got down to the Pd level. She thought it would be a maximum of 25% with respect to both of those structures. There were a lot of questions that needed to be addressed. The first question was whether the necessary information could be collected so the Commission could make a decision on whether to allow this project to move forward and be completed in a timely fashion. Commissioner McKitterick noted that since the land was creeping, if it could get approved for construction this summer, there might be some added safety benefit—at least with regard to the downhill homeowner and perhaps the adjacent homeowner.

Responding to Vice Chair Zaffaroni, Mr. Sayre said he suspected that the movement that had been detected on the site was specific to this site because it was associated with distinct geomorphic features—either the active landslide itself or other scarf-like forms that were unsupportive and suspect for stability. Responding to Vice Chair Zaffaroni, he said he felt that after the work was completed, the neighborhood and vicinity would be more stable than the current situation—especially with the drainage that would be added to take the water out of the subsurface. Additionally, a big mass had shifted itself downhill within an area of deep landsliding. Redistributing that mass similar to what it was before it failed, would reduce the impacts uphill and downhill.

Mr. Vlastic said one of the critical factors was the economics. The applicant needed to know about the floor area issue and the size of replacement. If the applicant was not getting sufficient economic return, he could walk away. Staff could put together some scenarios that would answer most of the questions the Commissioners raised tonight. But, it was a matter of who was going to pay for this and where the money was going to come from. If it was tied to the square footage, that became a very significant discretionary issue. Commissioner McKitterick said that was tied into the durability and safety of the resultant structures. If it was not going to be an engineered solution but there would be very durable and safe structures, he would feel better about 25% or more as opposed to a situation where you had a structure still at risk. Vice Chair Zaffaroni said the Resolution required as safe as possible reconstruction.

Mr. Berry said Mr. Hibbard had spent a lot of money. The design for the stitch piers was almost done. There had also been discussion with the contractor, Peter Hennessey, about the drainage. He did not think there was a better contractor in the whole bay area to do this work. Mr. Hennessey was extremely conscientious and did things according to plan. If this was approved, he would do an excellent job efficiently and quickly. John Hibbard added that he had done a number of jobs in Portola Valley on landslide repairs over the years.

Mr. Hibbard said Commissioner Elkind raised the issue about the source of the water and the involvement of people upstream. He was not in favor of that because of the timing. The drainage was the most important issue and was the key to all of it. Finding out where the water could go would require cooperation with Mr. Toben, any one else downstream, and probably the Town. Mr. Berry said he had done some work earlier trying to ascertain where the water came from. There was no evidence where it came from except right where it entered the property. He had copies of the original plans, and there was once a major concrete channel with bollards and rocks. Those plans were labeled “as built.” That was no longer there. It was very difficult to tell where the water came from that did all the damage. It was felt it could be captured at the property line and the output controlled. Mr. Vlastic agreed that trying to go back and figure out what happened up above would not be productive at this time. Jean Isaacson said she could locate the plans that showed were a drain had been built.

Vice Chair Zaffaroni said she hoped that the information requested could be obtained in a timely fashion.

(2) Preliminary Review of Amendments to Spring Down Equestrian Center Conditional Use Permit, X7D-29

Mr. Vlastic reviewed the 2/14/08 staff report on the request to: 1) allow up to six, limited size horse shows per year; and 2) extend the permit life from 2018 to 2028.

Commissioner Elkind said it would be helpful to see a parking plan as well as a plan that showed how the standby horses would be handled and where the visiting horses and contestants would be standing around. The site was constricted now, and she wanted to know how everything would be managed during a horse show. Secondly, it appeared there had been a pattern over time of asking for things, getting it, and coming back for a little bit more. Because of the conscientious management on the part of the Goodstiens, it was a sterling operation. But, she was uncomfortable extending the use permit from 2018 to 2028 because there might be a change of ownership. Use permits ran with the land, and it was important for the Town to be able

to be sure that if this higher density use was granted, a new owner operated at the same standard as had been experienced. She would also like to know if the size of the horse shows could be capped at 65 and the number of off site horses could be reduced to 20 rather than 25. In the CUP in 1984, there was a condition that said priority should be given to horses owned by Portola Valley residents. That reminded her that for commercial operations in Town, the goal was to get a majority of clients from Town.

Commissioner Gilbert said she wasn't on the Commission for the site visit, thus needed a site visit to understand the capacity for parking. Secondly, some of the documents indicated that at some point the applicant was pursuing a conservation easement; she wanted more information on whether that was still an active process. She said the last amendment was in November 2007 when the request was to go up to 40 horses and not have horse shows. Something had changed between then and now, and she wanted to know what had changed economically.

Commissioner McKittrick said in general he supported the request for horse shows subject to further information as requested by staff. With respect to the 10-year extension, that was more problematic. That was a long time in the future in terms of operations. A lot could happen in ten years to make the Town want to alter the terms of the permit; the Town should have the ability to do that. He wanted more information from the applicant as to why that was essential and why it was critical to the ongoing operations.

Responding to Vice Chair Zaffaroni, Mr. Vlasic said the Commission would need to decide if they wanted to have conditions 5a and 5b shown in the staff report (p. 2) apply to horse shows. With respect to condition 5, the number of horses would be different with outside participation limited to 25 and inside to 45. Right now, they were not limited in terms of the number of horse shows. They were limited by size and permitting requirements. Limiting it to 6/year was not inconsistent with what they were doing. Vice Chair Zaffaroni said she did not have a clear idea of the Town's plans for the property and how that might alter the current use of this property. In the report, it mentioned that the applicants were concerned about sport court noise. With respect to continuation of horse shows, her biggest questions were parking, access and ingress/egress with respect to planned Town uses. In terms of the extension of the permit to 2028, her concern was not fully understanding what the Town uses would be. They could be subject to change over time. Since this was the immediate adjacent neighbor and a shorter time period was approved, she was somewhat reluctant to extend it due to the number of unknowns. Mr. Vlasic said the patterns of use anticipated with the soccer field and tennis courts, parking demands projected, etc., could all be looked at. It was important not to lose any parking spaces at the Town Center. The Town Center would not be available as it was in the past for horse show parking. If the horse shows continued, they would need to be timed so that they didn't conflict with lessons or other activities. If the horse show parking spilled off site, it could not conflict with the Town Center.

Carol Goodstien, applicant, said when there were horse shows, there were no lessons. Theoretically, there could be less people parking on the property. When people came for a horse show from off site, they generally came with a four-horse trailer with four horses in it, or a two-horse trailer with two horses in it. If there were ten horse trailers there, that was a lot. She thought there would be an average of 6-7 horse trailers. There was plenty of room to park 6-7 horse trailers; 30 could be parked if needed. The horses lived in the barn. The people who came from off site to the horse show tied the horses to the trailer. There was no problem of where the horses went. The horses were well taken care of and that was not a problem. Responding to Vice Chair Zaffaroni, she said the horse shows were entry level and did not go overnight. The shows were for people who were learning to ride. Riding horses was a recognized sport, and she thought the Town wanted horses here. Responding to Stan Goodstien, Mr. Vlasic said use permits had a date certain termination. It would run with the land to the new owner. Mrs. Goodstien said the new arena would cost close to \$500,000 and would be environmentally dust free, watered, etc., to make it the way the community wanted things. To spend that kind of money and not know in 8 years if the permit was gone didn't make economic sense. Responding to Vice Chair Zaffaroni, she said the extension had been requested to help defray some of the cost. It was hard in the horse business to make the numbers make sense. Mr. Goodstien described the arena surface proposed.



Responding to a resident, Vice Chair Zaffaroni said a use permit could be revoked if the conditions were not complied with. Normally, if a permit was coming up for expiration, that gave the Commission an opportunity to review all relevant aspects. The requested time period extension was to 2028. There could be changes that could create a conflict, which was a question she wanted the Town Planner to think about in terms of whether that might be an issue at some point in the future. If the permit expired on 2018, which was currently provided for, the Commission at that point could reassess the entire situation and make appropriate changes to the use permit.

Responding to Mr. Goodstien, Vice Chair Zaffaroni said virtually everyone in the community agreed it was a wonderful amenity and enhanced the community to have it. The Commission was not opposed to having the facility. All the amendments that had been asked for and the extensions had been supported. At this point, it was getting a little far out because it was fair to assume that the Goodstiens would not be the operators in 2028. Mrs. Goodstien said the new operators would have to abide by the same use permit. The Town had control of what went on there. Vice Chair Zaffaroni said the facility was the immediate neighbor to the Town's complex. It was difficult to anticipate at this point the uses that complex might assume over time. It would probably be desirable from the Town's standpoint to review all aspects of the permit in 2018—which was ten years away. It had nothing to do with the quality of the operation or the amenity to the community that was currently being provided.

With respect to the conservation easement, Mr. Vlasic said the Town had to examine those factors that had to be looked at for conservation easements. You had to go through a variety of steps and certify that it would achieve certain objectives. Part of the reason for doing it was tax relief. One of the problems was articulating open space and conservation benefits that would accrue to the property with the conservation easement. That got complicated and made it more difficult. There was also concern expressed about whether the conservation easement would guarantee in perpetuity a horse use. Part of the problem here was that the Town Center was not in full operation. After the use at Spring Down was scaled back, there might be things that the Town hadn't anticipated that became issues. It was possible that there could be a five-year extension with check points along the way. That might not provide the guarantees the Goodstiens were seeking relative to their investment, but the Town couldn't guarantee that in 2018 it wouldn't have any issues. There was a certain amount of risk the Goodstiens would take, but that was part of the process of cutting back and the Town purchasing the two front parcels.

Vice Chair Zaffaroni said it was hard to anticipate conflicts that could arise that were unanticipated. Commissioner Elkind said Portola Road was a major corridor. There were a number of parcels on Portola Road in the vicinity of the Valley Square that could experience more intense use with serious traffic or use problems in the corridor. That was an example of a future unknown beside the pattern of use at the Town Center.

Mr. Goodstien said there were cars coming into the Town Center for baseball games, tennis matches, etc. In 25 years, the Town pretty well knew what traffic Spring Down had. He didn't understand how the Town could find fault with their little operation when there would be 20 times more people at the Town Center. Spring Down had not been able to use parking at Town Center since 2006, and there were no problems with the horse shows during that time. As far as changing their minds, when they sold the property to the Town at a substantial discount and agreed not to have horse shows and only 40 horses, they had no idea how costs would escalate. The price of hay had tripled, and insurance was \$5,000/month.

Bill Lane, Westridge, said this was an excellent horse complex. There was a wonderful article in the Post about what horses meant to the community. He was currently involved in a big fundraising effort for the stable in Woodside. The system of trails in Town and at Stanford was world class, and he had sponsored many horse shows. There had been discussions about the playing fields; the great majority of people who played on the fields did not live in the community. He could not think of anything better for the image of the Town Center—with its beautiful soccer field, baseball fields, etc.—than to have a top flight horse stable/facility right next to it. Parking would be a challenge at time for the whole Town Center complex. This facility was well managed and committed. Many people could not keep horses at their home. If the extension of 10

years ensured a continuation of a first class horse facility, he supported that. He wanted the Town to do as much as it could to preserve this wonderful facility. There had never been any question about the Town's interest in preserving open space since the Town incorporated. It was the Holy Grail. Everything possible should be done to preserve the horse ethic and the trails that made this such a wonderful place to live.

Responding to Vice Chair Zaffaroni, Mrs. Goodstien said if there weren't a lot of things going on at Spring Down, the riders went out for trail rides. Mr. Lane said a lot of equestrians rode the trails. Vice Chair Zaffaroni said Mr. Lane's comment indicated that by extending the permit into the future, it would stake the horse use along with competing uses.

Vice Chair Zaffaroni said the issues raised included: 1) parking; and 2) future use of the Town property. Mr. Vlasic said there was quite a bit of site plan data in the file on parking, which could be used to answer some of the questions. Commissioner Elkind reiterated that she would like to see a plan indicating the circulation and horse assembly for shows. Mr. Vlasic said he would annotate the site plan with the information.

(1) Public Hearing: Proposed Amendment to the Zoning Ordinance Regarding Nonconforming Uses

Town Planner Mader reviewed the staff report of 2/27/08 on the amendments to the nonconforming use provisions of the zoning ordinance.

Referring to the staff report (p. 2-3), Commissioner Elkind said she would like to add the two provisions shown in #3.

Responding to Commissioner McKitterick, Town Planner Mader said "structural alternations" (18.46.020) were things like moving walls and changing the structure of the building as opposed to cabinetry work, etc. Commissioner McKitterick said Palo Alto's ordinance allowed structural alternations for non-compliant facilities as long as it could accommodate a conforming use. Town Planner Mader said it was standard language.

Vice Chair Zaffaroni said if the trigger point was more than 50%, she asked if limiting people's ability to have structural alterations added anything. Town Planner Mader said it was hold over language. The difference was that 18.46.020 was not based on value. A structure occupied by a nonconforming use was more significant than if it was a nonconforming structure. Vice Chair Zaffaroni said there was nothing that addressed voluntary work that didn't trigger the 50% rule. She thought there should be some guidance for people who were doing work that was below the 50% trigger point.

Town Planner Mader said Commissioner Elkind supported the two provisions proposed in the staff report (p. 2-3, item #3). If it was less than 50%, it could be rebuilt as it was. He assumed that was understood. Vice Chair Zaffaroni said it was clearly addressed with respect to involuntary damage in 18.46.030A and B, and she thought above and below trigger point for voluntary damage should be addressed as well. Town Planner Mader said by and large, if you had a regulation that stated you couldn't further exceed, the interpretation was that it had to conform to what was there.

Commissioner McKitterick said the Palo Alto ordinance also spoke to voluntary destruction that was only to the portion that was conforming. The Town had one applicant where the corner of their house was in the creek setback. If they demolished the entire house and rebuilt it other than that corner, Palo Alto would allow that. The Town's proposal was that if the total work done voluntarily was more than 50%, you had to tear down that room and rebuild the whole house. Town Planner Mader said when you were doing that much work to a structure (over 50%), he took the approach used for the creek setbacks. If it was major, the whole thing should conform. He added that regulations on non-conforming uses varied a lot. They could be a lot more complicated than what was proposed. He questioned whether it was necessary.

Vice Chair Zaffaroni said the proposed language in the staff report under #1 didn't provide a different rule with respect to "a portion thereof." That should be discussed. Town Planner Mader said if a structure was

into a yard and you were only going to work on the part that conformed, the question was whether to try to pick up the nonconforming at that time.

Commissioner Elkind said she read all the minutes that pertained to this issue. One thing that came through was that the long-term objective was to achieve compliance with the setbacks that had been adopted in the Town. This provision should work toward that aim. If a structure was being modified on the part that was outside of the setback area, she did not want to allow retention of the room that was intruding on the setback.

Mr. Vlasic said if the rest of the structure was being modified to that extent, the building codes and fire codes would kick in. That meant that that portion of the building was going to have to be upgraded to meet current standards anyway. He thought it would be hard to separate out that part that was not being changed when it would have to be fixed to current standards. It would likely have to have a substantial amount of work done to it in terms of electric, plumbing, roofing, etc. Palo Alto had in the past a provision that said if one wall was left, you could avoid complying with other provisions of the code. In essence, by the time the project was complete, that wall disappeared.

Commissioner Gilbert preferred to keep it simple with a greater than 50% and a less than 50% requirement. She did not think the second paragraph under #3 in the staff report was necessary. It increased the complexity by calling out 50% of a portion of the value. Vice Chair Zaffaroni agreed.

Commissioner Elkind said she wanted to capture the situation where the only part was small but happened to be in the setback area. She thought the second paragraph was desirable because of her aggressive stand with respect to setbacks. They were one of the most important tools in Town for maintaining a sense of open space and privacy between homes.

Commissioner McKitterick said if someone was replacing a part of a wall that happened to be in the setback, it would probably be more than 50% of the value if it was an old house. He did not think they should have to rebuild the whole house. Vice Chair Zaffaroni said they would only have to remove that portion that encroached in the setback area.

Vice Chair Zaffaroni said it was difficult to require reconfiguration of a home. If that particular wall happened to be the kitchen, they would have to reconfigure the house. It was also difficult to assess the cost in reconfiguring a house in order to remove that section. Commissioner McKitterick said he would not want it to be the impetus to rebuild a house on a new site. If someone just wanted to rebuild a particular portion that was non-conforming, as long as it was less than 50% of the value, he thought that should be allowed.

Commissioner Gilbert said you could change the percentage; instead of 50-50 it could be 60-40 or 70-30 so that it was a smaller percentage of the whole value that triggered making it conform. But, she did not want to use different metrics. Commissioner Elkind agreed it was important to stay with the 50%. After listening to Vice Chair Zaffaroni and Commissioner McKitterick, she could change her position. Vice Chair Zaffaroni said there were situations where the Town would like to require this to happen. Obviously, a past planning commission didn't even want to address this issue and left it out all together. It was not easy to come up with something that addressed it, was easy to apply, and made sense for the community.

Responding to Town Planner Mader, Vice Chair Zaffaroni said she preferred the language in item #1 of the staff report, which was what was originally proposed. It used "all current requirements of the zoning ordinance." In the future, if further changes were made to the zoning ordinance, everything would have to be elaborated. If you used "all current requirements," it was inclusive. Town Planner Mader said that was why it was written that way. Commissioners agreed.

Vice Chair Zaffaroni confirmed for Town Planner Mader that the Commission wanted to add language for voluntary damage when it was less than 50% that indicated you could rebuild to the prior dimensions; the language would be similar to the last clause in 18.46.030A. Additionally, she noted that 18.46.030B required

approval by the ASCC. Other than not enlarging the extent of the non-conformity, it was left open for less than 50%. People were not being required to move anything or conform, and there might be situations where the ASCC could mediate between neighbors that were upset because something encroached on the yard setback. Someone could do 49% of a rebuild, and the neighbors might not be happy about it. The ASCC could provide guidance. Commissioner McKitterick said the ASCC would see the 49% projects anyway. Vice Chair Zaffaroni agreed.

Town Planner Mader confirmed that the wording in #1, page 2 of the staff report was acceptable and that language would be provided that addressed voluntary reconstruction for less than 50%.

Referring to 18.46.030, Commissioner Elkind said the language in A and B was not parallel. Vice Chair Zaffaroni said it wasn't intended to be because there were differences. She felt parallel language had been achieved to the extent possible. Commissioner McKitterick suggested "meets or exceeds 50%." Commissioners agreed.

Town Planner Mader said there had been some discussion about deleting 18.46.020 or changing the wording about "structural alteration" and authorization by the planning commission. He said he would look at that.

Referring to 18.46.050, Commissioner Elkind asked if termites and dry rot were included in damage by any cause. In the section above, involuntary damage was defined in terms of calamitous forces. During the creek setback discussions, there was conversation about termites and dry rot. Town Planner Mader noted that 18.46.030C defined involuntary damage for the purposes of this Chapter. Vice Chair Zaffaroni said in this situation, they were being required to conform. Town Planner Mader noted that 18.46.050 included damage by any cause. Vice Chair Zaffaroni said that would bring more people into compliance because it was a safety issue.

Vice Chair Zaffaroni said she felt 18.46.050 was a little confusing. Section 18.46.030D said this provision did not apply to buildings addressed in 18.46.050. But, .050 referred back to .030 not once but twice. She suggested adding language to .030D like "unless otherwise stated, this provision does not apply to buildings addressed in Section 18.46.050." Referring to 18.46.030C, she said it should be "calamity or force."

The hearing was continued to the next meeting.

(4) Report on Work of Climate Protection Task Force

Councilmember Toben reviewed his memo to the Commission on the April 5 Workshop on Home Energy Conservation and Green Design. He said the workshop was the result of work on the green design committee. At the last meeting, it was suggested that a workshop could introduce people to the concept of green certification so people could start getting comfortable with these ideas. Most people had never seen a green building checklist or understood how it might apply. A lot of elements would not be difficult to incorporate. On the other hand, some people might not want to have anything to do with any form of directive system. It was better to address that now. A green builder in Town had offered to open her home in the afternoon. There would be a meeting with 6 architects in Town on March 18 about coaching participants at the April 5 workshop in completing the green building checklist. Responding to Vice Chair Zaffaroni, he said there was a single checklist developed by Build It Green, which was simpler and more user friendly than LEEDs. He described the checklist, rewards for achieving so many points, and outreach planned for the workshop.

Bill Lane discussed the opening of the environment and energy building (Y2E2) at Stanford and the growing interest in climate change and impacts of melting glaciers. Once the Town Center was up and operating, he thought it would be sensational. There was an organization in San Mateo County that gave out awards. This year it was going to San Mateo Community College. He suggested the architects submit the Town Center for consideration next year. Some of the County Supervisors felt the Town had an excellent chance.

There were quite a few people in the County and Sacramento, who were very mindful of the leadership of Portola Valley. It was timely to hold the workshop. With Town communication and great publicity, he felt there would be a very good turnout. He congratulated everyone for their part to make it possible. Vice Chair Zaffaroni said it was wonderful that the Town was setting precedent in this area.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS [Not recorded]

APPROVAL OF MINUTES [Not recorded.]

By motion and second, the minutes of the 2/20/08 meeting were approved by a vote of 3-0, with Vice Chair Zaffaroni abstaining.

ADJOURNMENT: 11:15 p.m.

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Leah Zaffaroni, Vice Chair  
Planning Commission

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Leslie Lambert  
Planning Manager