

PLANNING COMMISSION MEETING, TOWN OF PORTOLA VALLEY, DECEMBER 7, 2011, SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chair McKitterick called the Planning Commission regular meeting to order at 7:30 p.m. Ms. Brown called the roll:

Present: Commissioners Denise Gilbert, Arthur McIntosh and Alexandra Von Feldt; Vice Chair Leah Zaffaroni; Chair Nate McKitterick

Absent: None

Staff Present: Tom Vlastic, Town Planner  
Sandy Sloan, Town Attorney  
CheyAnne Brown, Planning Technician  
Councilmember Ann Wengert

ORAL COMMUNICATIONS

None

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 (Dr. Kirk Neely/Holly Myers)

Mr. Vlastic referenced the December 2, 2011 staff report, and indicated that the public hearing will be continued to the January 18, 2012 meeting to allow for processing of the CEQA documents and to address any issues that come up tonight. He said that he will focus on the visual analysis via a PowerPoint presentation, and cover concerns that have been expressed, such as those in a December 2, 2011 letter from Rusty Day of the Westridge Architectural Supervising Committee (WASC) regarding General Plan conformity and other issues that have arisen, as well as a letter from the applicants dated December 6, 2011.

To clarify, Mr. Vlastic said that Dr. Neely advised that the staff report comment about all of the buildings being off the power grid isn't entirely accurate, because the greenhouse would be linked to the house's utility systems and the agricultural (ag) building's solar facilities will feed back into the grid. In addition, Mr. Vlastic said, Commissioner Gilbert wanted to clarify her comments referenced in the staff report (page 4) regarding her experience in viewing the upper buildings. The only question she raised in a follow-up email after a site visit involved tree removal, he said, but her remaining silent on other issues shouldn't be construed to imply that she had no other concerns.

On his first slide, a 2001 aerial photo of the property, Mr. Vlastic pointed out:

- Bozzo Gulch going to the top of the property, following the boundary with The Sequoias and the Midpeninsula Regional Open Space District (MROSD) parking lot.
- Portola Road coming back up to the north side of the property. Most of this area has a dense tree cover, especially the upper portion, Mr. Vlastic said.
- The existing vineyards.
- The existing Conolley-Melchor historic house.
- The water reservoir.
- The spring.

- Sites for the guest house, art studio, and above, the cabaña.
- The area in the meadow intended for the ag building.

He said that the sites up on the ridge have been carefully selected openings within the existing tree cover on relatively level land – obviating the need for tree removal and minimizing grading requirements. The trees also provide screening for these sites.

The barn would be tucked into some trees above the vineyard, Mr. Vlastic explained, and the existing road system, which extends from the main house and works its way through the trees up to the cabaña site, eliminates the need for road and driveway improvements. The private driveway serving the property has probably existed since the time of the historic Bozzo Spring Ranch House, which was located at a site at the top of the property that's recognized in the Historic Element of Portola Valley's General Plan.

The openings in the tree cover that Mr. Vlastic identified contain the existing house as well as proposed sites for the greenhouse, art studio and cabaña. Views from offsite also show the extent of the tree cover, he said, with roughly 1,000 to 1,500 square feet of tree cover across Bozzo Gulch to Spring Ridge.

As identified in the General Plan and in the MROSD, Mr. Vlastic said that Spring Ridge is a barren area. No barren slopes on the Neely/Myers property go up to Spring Ridge other than what's been cultivated for the vineyards, which had been permitted for that use. He also identified the Spring Ridge Trail, although he noted that Spring Ridge itself is on MROSD property. In addition to the site of the former Bozzo Spring Ranch House, which is near the area earmarked for the Neely/Myers cabaña but at a somewhat higher elevation, historical site plaques also have been designated for the former Billar-Cooney and Orton houses as well as the Hamm "Mountain Home." Mr. Vlastic also pointed out the sites of the former Hallidie House, the Hallidie Tramway and the Flax Mill.

Mr. Vlastic drew the Commissioners' attention to the boundary of the 6,000-square-foot arc between Residential Areas 11 and 12 and between the zoning districts. Above that line, he said, the area contains 90 to 100 acres of the 229-acre Neely/Myers property, and new development on that portion would contain some 4,300 square feet of floor area and about 8,000 square feet of impervious surface area.

Noting that the WASC comments indicated that any development above that line should be minimal, Mr. Vlastic made several observations:

- There's an existing road to serve those improvements.
- The fire marshal is satisfied that the area would be accessible in emergencies.
- No significant grading would be needed.
- Existing water systems would serve the proposed buildings.
- The new structures would be off the power grid.
- The new structures would be nicely secluded from view.

Furthermore, Mr. Vlastic compared floor area and impervious surface limits on smaller parcels to the applicants' proposal: A one-acre parcel may have up to 5,260 square feet of floor area and some 7,800 square feet of impervious surface, he said, and limits on a three-acre parcel would be about twice those amounts. In relation to those numbers, Mr. Vlastic stated, the applicants' proposed development seems to meet the criteria for minimal.

In the lower meadow area, he said that there's no proposal to change the property in the area of the vineyards except for a small stable, and the riding area originally proposed is no longer part of the applicants' plan.

Mr. Vlasic also indicated that before the MROSD entered the picture, the General Plan originally showed the Meadow Preserve extending all the way to The Sequoias' boundary. In approving the MROSD use permit, the Town concluded that some improvements within that area (e.g., the parking lot) would be appropriate.

Mr. Vlasic enumerated a number of significant changes made to the Neely/Myers proposal since the Planning Commission considered it about a year ago. From staff's perspective, he said, moving the ag building out of the fault setback area to the northern end of the meadow was significant because, among other things, it means that the Planning Commission won't have to make a finding that the proposed building would be safe from natural hazards. The applicants' revisions also reduce the impervious surface area associated with this building and clarify the proposed agricultural uses.

Mr. Vlasic also showed photos picturing the part of the meadow proposed for haying and grass uses (about 600 feet deep), the transition area to the more cultivated fruit and vegetable uses (about 300 feet deep), and the site of the ag building itself. Other photos were taken from the Spring Ridge Trail, along the boundary of the MROSD parking lot and the Neely/Myers driveway. Mr. Vlasic pointed out places in the public right-of-way and on MROSD property where Howard Young, the Town's Public Works Director, and members of the Conservation Committee have done some field work, using white spray paint to identify materials that may eventually be removed to create a more expansive view corridor. Mr. Vlasic noted that ASCC also will consider possibilities for opening views. Further, he identified the location of the story poles and the break boundary between the haying and non-haying uses, an area where oak trees filter the views, and where the oaks become denser near the driveway opening.

Where Portola Road meets the parking lot, he indicated, there's an opening across the meadow, pointing out the boundary between the Windy Hill Open Space Preserve and the Neely/Myers property and where the non-haying agricultural uses would begin. Working west, he called Commissioners' attention to the story poles in the distance. On the applicants' side of the driveway, Mr. Vlasic identified a fairly dense row of trees along the MROSD parking lot, again showing the boundary between the Neely/Myers parcel and the preserve, and the location for the non-haying agricultural uses, as well as the outline of the applicants' proposed barn building and the barn on the adjacent Jelich property. He also showed a photograph looking toward the Morshead property, where several sites are designated in the Historic Element, indicating the location of a knoll area behind trees, where the applicants are proposing other non-haying agricultural use.

Mr. Vlasic's presentation also included photographs of screening trees that have been planted along the applicants' property boundary line, bisecting the meadow, and parallel to the Portola Road corridor. He indicated that a condition of approval includes removal or modification of these plantings, within a one-year period, according to a plan developed with the ASCC.

Showing a photograph of the existing driveway area beyond the Neely/Myers gate, Mr. Vlasic said that the applicants want to make a separate driveway, a request that Mr. Young has determined worthy of consideration for safety reasons. The use permit thus might include a condition for driveway improvements based on Mr. Young's recommendations and ASCC input in regard to aesthetics. In response to a question from Commissioner McIntosh, Mr. Vlasic said that where the Jelich property shares the apron to its driveway with Neely/Myers, closer the roadside, most of the land is in the public right-of-way, so no easements are involved. Confirming the presence of a culvert on the Neely/Myers property, he added that the catch basin in the road presents a problem that needs to be addressed.

Referring to the staff report, Commissioner Gilbert asked whether the BKF diagram of the proposed driveway shows more extensive work than what's now planned. Mr. Vlasic said that he believes a solution can indeed be achieved with less than what the diagram shows. He said that Mr. Young felt work was needed to improve safety for turning, but not necessarily as much as the diagram indicates.

Mr. Vlasic's visuals also included photographs with views from various vantage points:

- Approaching Portola Road from Westridge Drive, with Windy Hill and Spring Ridge and a small vineyard visible in the background.

- Off Sierra Court, looking toward the vineyard areas on the Neely/Myers property, also showing Windy Hill, Bozzo Gulch and Sierra Ridge.
- From La Sandra Way, viewing the top of Windy Hill, Spring Ridge, existing vineyards on the Neely/Myers property and areas for development above the 6,000-foot line.

Showing the General Plan diagram, Mr. Vlastic pointed out locations of MROSD ownership and use in Spring Ridge, the Portola Road extension and the break between Residential Areas 11 and 12. Indicating that the diagram dates back to 1976, he also pointed out the Meadow Preserve – which at the time extended to The Sequoias property.

As the staff report (page 6) explains, Mr. Vlastic continued, the Town Council addressed the issue of the Meadow Preserve in the General Plan at the Planning Commission's request, and advised the Planning Commission to rely on the General Plan provisions that existed when Neely/Myers first filed their application (in 2009). In concluding his presentation, he alluded to Councilmember Toben's observation that the Planning Commission's task in applying the facts of the Neely/Myers application to the General Plan phrase "present agricultural uses maintained" was like trying to fit a square peg into a round hole.

Chair McKitterick said that because some communications over the past few days raised questions not addressed in the staff report, he'd asked Mr. Vlastic and Ms. Sloan to get together and address those questions tonight.

- *Application status:* Mr. Vlastic said that from a planning perspective, moving the building in the meadow outside the fault setback zone and clarifying the uses proposed represent substantial revisions, but they're based on the original application. In response to Vice Chair Zaffaroni, Mr. Vlastic said that the Town Attorney would comment on the legal aspects of this question.
- *Appeal timeframe:* Mr. Vlastic said that appeals must be filed within 30 days of the date the applicants receive notice of Planning Commission action. Anyone may file an appeal and pay the costs associated with it, including the cost of time for staff and consultants to review the appeal and provide appropriate direction.
- *Historical perspective:* Mr. Vlastic said that he's covered some historic aspects, but added that the Neely/Myers property is not part of the identified Spring Ridge historic area, nor is it a barren slope leading up to it. The property does, however, contain portions of a Community Preserve or a Residential Open Space Preserve, he said, where minimal development with minimum disturbance to the conditions is proposed.

Although Mr. Vlastic previously addressed a number of issues concerning the General Plan, other questions were raised that relate to meeting General Plan provisions in terms of Sections 2125 and 2126, which pertain to Residential Area 11. In Section 2126, for example, it says:

*It should be possible and practical to preserve a large amount of the area in a natural state. In particular, it is desirable that the natural character of the open ridge leading up to the Windy Hill Open Space Preserve and the orchards and meadow adjacent to Portola Road and town center be retained.*

In this context, Mr. Vlastic stated, the plan proposes using only 30 acres of the 229-acre property as follows:

- 2 acres Floor area and impervious surface area
- 28 acres Agricultural uses 14 acres – existing vineyards:
  - 7 acres – haying
  - 7 acres – non-haying agricultural uses

In terms of Residential Area 12, which is in the 90 to 100 acres above the 6,000-foot arc that Mr. Vlastic previously described, he reiterated that 4,400 square feet of floor area and 8,500 square feet of impervious surface are proposed. He also previously addressed provisions of Section 2128 that discuss "minimal" and "sparse" development and the need for "adequate access" for prompt emergency response in such development.

In response to Chair McKitterick, Mr. Vlastic confirmed that the General Plan provisions cited apply to portions of the Neely/Myers property, but do not preclude some development. He explained that the General Plan has specific clustered provisions that are largely intended to guide subdivision and planned unit development (PUD) proposals. On this property, he said, staff estimated potential for 18 to 20 clustered residences near the main house. He said that in comparison to the Neely/Myers proposal, such a clustered development would be "relatively huge" – with approximately 200,000 square feet of floor area and 400,000 square feet of impervious surface area, and involve much more extensive requirements in terms of building sites, slope, geology, road systems and access, etc.

Vice Chair Zaffaroni asked whether the 18 to 20 units Mr. Vlastic mentioned would be the maximum. Mr. Vlastic replied that the form and character of the development as well as the number of units would all depend on a variety of factors. He said that the minimum parcel size at Portola Valley Ranch was modified but the density did not change. At Blue Oaks, the minimum parcel size is considerably larger than at Portola Valley Ranch, but the zoning district boundary splits the property. Without looking at all aspects of a proposal, he said, he couldn't say whether density of 18 to 20 units could be achieved on the Neely/Myers parcel. Further, Mr. Vlastic pointed out that an indication of how substantially the Town's permissible open-space developments differ from the Neely/Myers proposal is evident in a review of General Plan Appendix 6, Implementation of the Open Space Element, which provides some of guidance on developments such as subdivisions and PUDs.

Ms. Sloan said that one point raised by Mr. Day of the WASC in his letter concerned Zoning Ordinance Chapter 18.72.250, which says:

*Following the denial or revocation of a conditional use permit, no application for a conditional use permit for the same or substantially the same conditional use on the same or substantially the same site shall be filed within one year from the date of denial or revocation of such conditional use permit.*

However, Ms. Sloan pointed out that from a planner's point of view, as Mr. Vlastic described, the application is substantially different from the original for a number of reasons. That's why she considers that chapter irrelevant. In fact, she added, the Town not only allows but encourages applicants to keep revising applications during the process, in part based on Planning Commission feedback. Further, in this case, she said that the Planning Commission's denial of the Neely/Myers permit on January 19, 2011 was not a final action because it was appealed. When the applicants asked if they could still be considered in the process of revising the application if they withdrew the appeal, she determined that yes, they could.

In terms of which version of General Plan language is appropriate in the Neely/Myers case, Ms. Sloan said that cities and towns have the ability to apply new regulations and new policies to applications that are in the pipeline, but most don't do that. Portola Valley is among them, traditionally honoring the laws in force at the time the application was deemed complete, as opposed to any enacted after the fact. The Town Council affirmed that stance at its meeting on October 26, 2011.

Chair McKitterick asked whether organic farming will be part of the CUP. Mr. Vlastic responded that the framework for agricultural uses is as indicated in the plans and in the statement that Dr. Neely and Ms. Myers submitted on November 21, 2011, and the Town will be reviewing a detailed implementation plan with the ASCC. In their statement, Neely/Myers said, "We are committed to organic agriculture in all agricultural pursuits. We expect to use only organic fertilizer, if needed, for vegetable crops. No chemical herbicides or pesticides will be used for any of the plants or for weed control."

In terms of onsite roads, Chair McKitterick asked whether a single unpaved road will go through the meadow. Mr. Vlastic said that the only road improvement is an extension, and no road is planned to go through the meadow. He stated that the plans will be corrected to remove anything that suggests otherwise. The Neely/Myers access gate would be moved, he said, and cut down to four feet if it exceeds that height.

In response to Chair McKitterick's inquiry about the reason for the impervious surfaces for the ag building and barn being 8,000 square feet, Mr. Vlastic said that the gravel road being put in to accommodate the trucks is part of it, plus the pad and the area under the overhang.

Chair McKitterick recalled the applicants indicating that agricultural trucks would be unable to use the existing access. Mr. Vlastic said that Mr. Young evaluated the situation, and thought that a less expansive widening could achieve a safe site distance. He added that he agrees with Mr. Young that modifying the current access point to meet turning needs is the preferred solution. He stated, too, that the applicants are prepared to work with the planning staff, the Public Works Department and ASCC to make it safe while minimizing the amount of disturbance and tree removal.

In terms of Chair McKitterick's questions about fencing, Mr. Vlastic said that the only new fencing would be that associated with the agricultural uses in the meadow area, and planning staff as well as the ASCC will take a hard look at the fencing proposed for the non-haying agricultural area in its conditions of approval for the CUP.

In response to Vice Chair Zaffaroni's further questions about road access across the meadow, Mr. Vlastic referred back to ruts visible in some of the photos in his PowerPoint presentation that indicated intermittent passage of vehicles. He said that he believes such access allows entry for maintenance as necessary, but there's no proposal to make any improvements except from Portola Road to the ag building.

Vice Chair Zaffaroni also pointed out that some roads appear to go up from behind the proposed ag building toward the northern border. Mr. Vlastic said that what she sees are probably maintenance and emergency access routes that have been on the property for some time. He said that if they've been managing the property by driving across the meadow on occasion, those are the paths they would follow. For a road to be considered an impervious surface, he said it would have a base rock on it or pavement, and there's no proposal for anything of that nature.

Vice Chair Zaffaroni said that she wouldn't feel comfortable about allowing the ASCC to make the decision about the new entry point because it is a General Plan policy to avoid adding new entry points off arterial roads. Mr. Vlastic said that there would be only one entry point. Two driveways come to Portola Road – one on the Jelich property and one on the Neely/Myers property – and merge together. The intent is not to add another driveway, but to make the existing entry safer. It was Mr. Young's concerns about safety, Mr. Vlastic added – not just in terms of what is proposed but what now exists – that led to the proposed solution, explaining that the hope is to eliminate the large flare, or apron, which is akin to a big pullout along Portola Road. He also pointed out that the Jelich approval included a driveway totally separate from the Neely/Myers property, but over time the two driveways merged together.

Commissioner McIntosh pointed out that the existing driveway and gate have served as an entry to that field for a long time.

According to Dr. Neely, who confirmed that the existing entrance has been there since at least 1912, the plan is to move the driveway and gate 40 feet south, because traffic engineers have opined that would be the safest, most efficient solution. He said that over the years, there's been encroachment on the utility of that entrance for two reasons that have made it dysfunctional. For one thing, he said, at some point, San Mateo County added a drainage ditch, making it virtually impossible to turn out of the driveway to the south, or to turn into the driveway from the north. Secondly, he said, when the Jelich barn was approved about 10 years ago, its entrance was allowed at that same place, which impinged and moved right in front of the Neely/Myers driveway. Moving the driveway 40 feet south would separate their entrance from the flare, the Jelich drive and the drainage ditch.

Chair McKitterick advised that Vice Chair Zaffaroni visit the site herself or with Mr. Young. She said she wanted to know whether other Commissioners shared her interest in having input on the final decision regarding the design and location of the entrance, not only because of its importance from a safety perspective – for vehicular traffic as well as cyclists, equestrians and hikers – but also its effects on traffic flow.

Vice Chair Zaffaroni emphasized that she would not reach any conclusions until further input has been made, weighed and considered, as well as any comments from circulation of the CEQA documentation. She also pointed out that statements in the staff report suggest that the Planning Commission had reached conclusions with respect to required findings after site visits or during preliminary reviews, and it would be improper for the Commission to do that. She said that the context of the application's long, complicated history is important to understand, because this particular proposal is now before the Commission for the first time. Only aspects have been considered before, she said, but not this proposal in its entirety. The last time the Commission considered the application, she added, specifics were available on only two buildings in terms of siting, design and development timeframe.

Chair McKitterick said that the record is pretty clear that the last application included enough specifics for the Planning Commission to take public comment and vote. He said that staff has made findings, but the Commission has clearly not come to any conclusions in terms of the present form of the application.

Vice Chair Zaffaroni brought up a number of additional questions and comments:

- The applicants provided a rather detailed letter spelling out their intentions, which raised a number of issues in terms of the kinds of agricultural uses, which the staff report suggested could be delegated to the ASCC for final approval, she said – but again, she added, the Planning Commission needs to have input on that as a very basic issue that is relevant to application of General Plan provisions. She called attention to page 16, for example, which says, "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." She said that the General Plan language provides for preserving the existing character of the meadow, so the Planning Commission should consider specifically what should be grown. For example, Commissioner Gilbert added, is a meadow still a meadow if it has an orchard in it?
- In terms of the staff report's section on visual effects of proposed changes in the meadow (pages 8-9), she asked whether the analysis took into account the impact of the eight-foot fence and a potential orchard. Mr. Vlasic said that there are roughly 600 feet of protected meadow before the area for non-haying uses would begin, and although there's no detailed plan yet, he did consider the use of post-and-wire fences to mimic those already present on the property. A solid board fence is not intended, he added, and with no such "hard line," there are possibilities for visually screening the backdrop of the dense vegetation to make it blend in. Whether an orchard, a fence or anything else, he explained, the dense, green backdrop will mesh with it.
- She requested further information about the condition related to the interaction between a Williamson Act contract and the duration for any floor area and impervious surface area to be exercised (Condition 1, page 2). Mr. Vlasic said that this represents an effort to encourage use of the Williamson Act and provide a longer timeframe. The applicants have indicated an intention to make use of the five-year timeframe, he said, but if a Williamson Act contract is in place and is continued for 10 years, there could be some flexibility in terms of the time to pursue development, particularly of the ag building. Vice Chair Zaffaroni said that 10 years seems to be a long time.

Commissioner Gilbert asked why that extension would be offered before we know what the applicants propose in terms of a Williamson Act contract. Mr. Vlasic again mentioned flexibility. Depending on the outcome of the Williamson Act discussions, he said that the 10-year period could be abbreviated, but if the CUP is approved with the condition as it stands now, it would require an amendment to the use permit.

*Condition 1. This permit shall be valid for an initial period of five years from the effective date of Planning Commission approval. Authorized buildings must be constructed or under construction within the initial five-year period. Any building(s) not under construction within the five-year period may not be authorized unless the Planning Commission finds, prior to the end of the initial five-year period, that building permit plans for the structures are in the process of Town review and that construction will be initiated within a reasonable period of time., e.g., within six months of the end of the initial five-year period. Agricultural uses in the Meadow Preserve area shall also be initiated within the five-year period.*

*The above notwithstanding, should the property be placed under a Williamson Act contract, the permit life shall be extended to 10 years for exercising the floor areas and impervious surfaces allowed under this permit. Any such floor area or impervious surface not exercised within 10 years shall not be authorized unless the Planning Commission, at the request of the applicant, extends the permit life. Any Commission consideration of extending the permit life shall be at a duly noticed public hearing.*

- Vice Chair Zaffaroni asked whether it was necessary to include the term "in perpetuity" in Condition 2 (page 2). She also said that it seems better to require an applicant to finish the building – with respect to colors, screening, etc. – rather than have drywall or something standing unfinished "in perpetuity," which could create an eyesore.

*Condition 2. If none of the authorized buildings or uses are pursued within the initial five-year period (or 10-year period if the property is under Williamson Act contract), then this CUP shall expire. If, however, any of the authorized floor area and associated impervious surface area have been improved, as provided for herein, or are in the process of construction, the permit shall remain in effect in perpetuity or until such time as other Town approvals may be granted for uses or improvements that would supersede the provisions of this permit.*

Mr. Vlasic said that the use permit doesn't authorize an incomplete project; it calls for completion of the projects via building permits that would have to be judged. An incomplete project would raise questions of conformity with the use permit. He explained that the intent in Condition 2 is to keep the use permit in effect until all of the buildings are completed, because the ability to exceed limits for floor area and impervious surfaces is tied to other aspects of the use permit.

Ms. Sloan said that in any event, the Town is free to indicate when construction needs to start and finish, and the condition could be clearer.

- In terms of Condition 3, Vice Chair Zaffaroni requested clarification about "maintenance" reasons for use of the secondary access point. Mr. Vlasic affirmed that it's maintenance of the meadow area.

*Condition 3. The primary access to the site shall continue to be the gated driveway common with the entry to the Windy Hill Open Space Preserve at the south end of the parcel's Portola Road frontage. The existing gated driveway at the north end of the parcel's Portola Road frontage shall only be for secondary access, i.e., maintenance, emergency access and service to the meadow area agricultural uses allowed for herein.*

In response to Commissioner Gilbert, Mr. Vlasic said that 14 acres of the property are currently devoted to vineyards. When she asked whether the grapes from four additional acres of vineyards in the meadow area would be processed in the current facilities that deal with the rest of the vineyards, Mr. Vlasic said no, the proposal was modified to say that the two vineyard areas would be totally separate, at least initially, and the processing for the new vineyards could take place offsite, with the grapes sold to another processor. He said that in the applicants' statement, they indicated that if they choose to eventually integrate the new vineyards with the existing winery operation, they know a use permit amendment would be necessary. In response to a further question, Mr. Vlasic affirmed that none of the processing would take place in the proposed ag building.

Referring to the ag building diagram, Commissioner Gilbert noted that it showed haying operations only, with no provisions for handling fruit from the orchards or vegetables from the garden. Mr. Vlasic said that although it's designed for maximum haying of the whole meadow area, if the maximum isn't used for that purpose, the building also might be used at least to stage crops for pickup.

Commissioner Gilbert said that both she and the ASCC had questioned the use of the northwest corner of the property. In their statement, she noted, the applicants said that using this area for more intensive agricultural uses didn't make sense due of the limited size, the established trees, proximity to the creek, and difficult slopes

Pointing out that the diagram shows using that area for haying, Commissioner Gilbert asked whether that use is realistic given the limitations the applicants indicated. She also pointed out that haying would affect the relative proportions used for haying versus non-haying uses. Mr. Vlasic said that once the Town has a detailed plan for use of that area he would be in a better position to respond.

Commissioner Von Feldt asked several questions:

- In terms of the proposed water use, she quoted from the staff report (page 8): *The scope of added water use for seven 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.* She asked whether staff's evaluation of added water use is based on anything more than the applicants' assertions. Mr. Vlasic said that staff has not conducted an agricultural evaluation because there's no final detailed plan, but considering the dry farming approach and other aspects, the applicants' statement doesn't seem unreasonable. Furthermore, he said, the applicants will not be pumping but using only water coming out of the spring's gravity flow. Ms. Sloan said that it's really important that the water won't be pumped, and if the applicants decided they needed to pump to bring in more water, they would have to come back to the Town for an amendment of the use permit, and that would trigger a new environmental review.
- She also asked for a further explanation of "dry farming." In response, Dr. Neely said that when the vineyards are planted, the trellises contain an irrigation system. Drip is applied a few times a year to get the roots going, and occasionally leading up to harvest but for the most part no water is applied once the vines are established. Anecdotally, he added, he and Ms. Myers use far more water from the reservoir to water their lawn than their 14-acre vineyard. He said that he isn't a farming expert, but he believes an orchard and vegetable garden could be treated in much the same way as the existing vineyard, using occasional drip irrigation. He said that overhead irrigation is the type that consumes enormous amounts of water.
- She asked whether fencing would surround the fruit and vegetable areas as well as the vineyard. Citing the applicants' statement, Mr. Vlasic responded affirmatively. When she asked whether the eight-foot height indicated aligns with the Town's Fence Ordinance, Mr. Vlasic pointed out that the fencing would all be far outside of the setback areas. He explained that the maximum fence height within the front-yard setbacks is four feet, with six feet within the side area setbacks, but other areas of the property are subject to Zoning Ordinance (rather than setback) height limits. Although that maximum is very high – 28 feet above ground – he emphasized that isn't what's proposed here, and with either the Planning Commission or the ASCC involved in reviewing the final plans, the fencing will not be unreasonably high.
- In terms of wildlife access, she pointed out that there appears to be a single corridor from the creek going into the unfenced areas. Mr. Vlasic said that fencing locations and access can be dealt with once detailed plans come in, but performance standards also may be associated with the conditions.

Commissioner McIntosh said that only one of his questions remains unasked. He wanted to know the status of the driveway dispute with MROSD. Mr. Vlasic said that to his knowledge, nothing has changed since the last time it was discussed.

Chair McKitterick opened the public hearing.

Annaloy Nickum, Alpine Road, said that if her assessment of the diagrams is accurate, the proposal would reduce the open-space meadow by two-thirds. She said that she assumes the haying operation would entail tilling the soil, planting and mowing – all of which would create an appalling amount of disturbance to the area – not only visually but in terms of noise from farm equipment and trucks. She said that she would have less of a problem with the proposal if the so-called "low-intensity" haying and grass were eliminated; that might make growing fruit and vegetables more palatable, she said.

Ms. Nickum also wanted to know how squirrels and other garden pests would be controlled. She pointed out that poisonous pest controls would work their way up the food chain, e.g., with hawks and other predators eating possibly poisoned animals.

Tina Hugg, with MROSD, noting that a comment letter the organization submitted in October 2011 wasn't in the Commissioners' packets, said she would send another copy. She said she came to the meeting to reiterate concerns outlined in that letter in regard to the expansion of the definition of the Meadow Preserve to include an ag building and agricultural uses outlined in the applicants' proposal. She said MROSD has further questions regarding the vineyards and whether additional vineyards, as well as fruit and vegetable growing, fits in with that definition. MROSD also is concerned, she said, with the disposition of grapes if the use permit is approved. Would they become part of the estate winery business? Would the sale of the grapes to another winery be in keeping with the low agricultural use definition of the Meadow Preserve?

Ms. Hugg said that MROSD's position at this point is to advocate for the application of the Meadow Preserve definition as it exists now, and to avoid any further development in the meadow. In response to a question from Commissioner Von Feldt, Ms. Hugg said that MROSD prefers a more clustered development than is represented by the proposal. When Commissioner Von Feldt asked if that preference applied even if it meant more tree removal, Ms. Hugg said they didn't have enough information at the time to comment on that.

Jon Silver, Portola Road, complimented the applicants on the improvements in their application, but he wanted to comment on two things in particular. While some development of the intensity proposed could be appropriate on their property, he said there must be a long-term guarantee of an open-space or conservation easement for key portions. Also, he said that he believes the intent of the Meadow Preserve language was to keep building out of the meadow, particularly considering the fact that alternative building sites are available on the property. Mr. Silver also said that great care is necessary in ensuring that the public is properly notified of meetings on topics as important as this one.

Mr. Day, Piñon Drive said that he had several points to emphasize:

- 1) He wanted to applaud and underscore what Vice Chair Zaffaroni said about the process. When this application came to the Planning Commission from the ASCC, he said, he attended the hearing and – in a personal capacity – spoke out for the importance of evaluating this proposal in the context of the General Plan. He said that George Mader, who was then Town Planner, echoed that sentiment, noting that this would be a significant application in terms of the General Plan. On January 18, 2011, the WASC wrote to the Planning Commission shortly before the Commission's meeting at which the application was denied. That letter asked the Planning Commission to have the applicants explain how their proposal squared with the General Plan.

In the staff report (page 15), as Vice Chair Zaffaroni pointed out, he said, Item 6 (Conformance with the Zoning Ordinance and General Plan), says:

*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.*

Mr. Day said that's not how he remembers it.

In last week's letter, he said the WASC again asked the Planning Commission to require the applicants – not staff – to evaluate the proposal against the General Plan to give the Town and its citizens an opportunity for an informed understanding of how the proposal squares with the General Plan. Mr. Day stated that the applicants ignoring the General Plan does not fulfill that responsibility, nor does allowing the applicants to ignore it fulfill the Planning Commission's responsibility. To date, he said, neither prior Planning Commission actions nor this staff report address the inconsistencies between this proposal and the General Plan. He said that tonight is the first time the affected residential areas have come up.

In terms of the potential density of a subdivision that Mr. Vlasic mentioned earlier, Mr. Day asserted, "That is a false premise." Where the entertainment center and the guest house are located, he claimed, there would be no subdivision. He also said that he thinks it's important for the Planning Commission to set a standard for the process it will follow in this case. State law and Town ordinance require applying the General Plan to this application, he said, and this isn't being done.

- 2) Mr. Day said that if the General Plan were to be applied to this proposal, staff would challenge the applicants to consider alternative locations for the proposed uses, instead of accepting and trying to justify them. The locations proposed for the entertainment center and guest house are not only in a residential area where they shouldn't be located, he said, but they're on the crest of the ridge, in the most prominent location on the property leading up to Windy Hill – the most sensitive and highly protected portion of the applicants' property. No other locations on the property were considered for these uses, he said.

If those structures are built in the proposed locations, Mr. Day said they would have to be surrounded by fire-clearance zones and installation of septic fields – and no one has discussed the visual impact of those requirements on that hillside. At the very least, he continued, story poles should be erected in advance of the January 18, 2012 public hearing so that citizens can see and consider what the applicants are asking to be approved.

- 3) In connection with the "negative covenants" circulated, Mr. Day echoed and expanded upon Mr. Silver's comments. He said that nothing contains any commitment from the applicants regarding future uses and future development, particularly in regard to the most sensitive and vulnerable locations. Mr. Day stated that by the next public hearing, the Planning Commission must give great thought to what negative covenants should be included.

When tonight's meeting was noticed, he added, the WASC held a meeting of its entire membership, which unanimously approved the letter submitted, so what he said represents not only his personal views but the position of the entire organization.

Linda Elkind, Hawkview Street, registered full support for comments submitted by WASC and MROSD and their representatives, Mr. Day and Ms. Hugg, for the remarks they made tonight. After studying previous staff reports and minutes from previous meetings, Ms. Elkind said she's very confused, and has questions about the project as well as how the proposed conditions would support the necessary findings. She said a lot of information is missing, and although she's quite familiar with planning issues, she found this staff report and the mitigated negative declaration opaque.

The minutes of the January 19, 2011 Planning Commission indicate the body's unanimous agreement in denying the application on the basis of insufficient supporting data, Ms. Elkind said, but she really wonders whether there's sufficient supporting data now, because so many conditions are based on future review and approval of the ASCC. She said that's troublesome because the ASCC is responsible for specific design elements, not for land-use policies, and so much of this application unsettles the pattern of land-use in Portola Valley, particularly with respect to the idea of preserving the natural vegetation in open-space areas.

She reiterated Mr. Day's point about considering the full effects of removing vegetation from around the buildings proposed for septic fields and fire clearance purposes. She also mentioned concerns about construction paths, and a need for water-storage tanks by the cabaña that would entail removing vegetation even if the tanks are installed underground. She realizes that details of those plans are not yet available, but she said she finds it problematic that the development is so spread out, that it goes way up the hill, and does not conform to the idea of clustered development. She said she'd like the Planning Commission to get more information about the extent to which the wild areas and the views would be affected.

She said, too, that she doesn't understand what's been settled with respect to the stable and the art studio. She said she's seen nothing further about them since reading that there were potential impacts of those structures that would have to be addressed. Prior to CEQA analysis, she stated, further clarification also is needed regarding factors such as drainage and grading. She asked how much site disturbance would be involved, and whether there are plans for water drainage and retention. She said that she's also concerned about plans for protecting and restoring the Sausal Creek riparian corridor.

Ms. Elkind stated that the cumulative buildout in diffuse locations currently proposed for the five structures is inconsistent with the General Plan vision for the site. The General Plan, she said, prioritizes open-space preservation and preservation of the area in a natural state. Under those circumstances, she said she does not see how the Planning Commission can make the necessary findings to approve the CUP as it is currently proposed.

As she interprets the minutes, Ms. Elkind said, she doesn't see any statements indicating that the Planning Commission considers most of the accessory uses in conformity with the General Plan and other regulations. She is very concerned about plans for additional vineyard plantings and the orchard, because those uses are contrary to the Town's definition of open space – which is mostly for preservation of natural vegetation. Although the General Plan discusses the importance of the Meadow Preserve, she went on, the proposal would mean the loss of a substantial part of the meadow for rather intensive agricultural activity.

Ms. Elkind also said that she's very disturbed by the argument that the clustered development requirement doesn't apply to a CUP. She said that when she looks at the role of precedent in establishing policy, almost by accident, there couldn't be an area more sensitive to the question of precedent than clustered development on hillsides. If this proposal is approved, she fears, other large property elements in the area will look to this decision to find a way around the requirement for clustered development. In addition, she said that whatever happens in this case will create a precedent regarding what's allowable on agricultural land in Town. She said that she's sure that Commissioner Gilbert understands, on the basis of her experience in wine country, what can happen on the hillsides when vineyards take over the natural vegetation.

Chair McKitterick asked whether any of the proposed buildings weren't story-poled. Mr. Vlasic said that he believes all of them had at least some form of story poles with respect to earlier versions of application. Chair McKitterick said that he remembers discussions of septic issues, fire clearance, drainage and grading, but not water tanks. Mr. Vlasic said that the original proposal had water tanks placed higher up on a side hill, near and somewhat west of the cabaña site. In the revised application, the tanks have been moved to an underground location in the grassy area right by the cabaña building, so they could be installed with no grading necessary on a side hill.

The septic areas, he continued, are the minimal size needed for the buildings. They would have to go through the normal, detailed septic review – but there would be no grading on a side hill location. Every plan would require a Site Development Permit review, which would cover drainage as well.

The cabaña, art studio and other sites would be cleared to the extent necessary for fire safety, Mr. Vlasic said, but pointed out that there's plenty of area around them before the tree cover begins, and/or the Fire Marshal is not uncomfortable about the trees.

Mr. Vlasic also pointed out that the sites were selected on the basis of not only critical factors of slope, geology and access, but also on minimal disturbance, while meeting the applicants' needs. He said that alternative locations had indeed been considered.

In response to a question from Commissioner McIntosh, Mr. Vlasic confirmed that two of the buildings proposed – the cabaña and the greenhouse – originally came in with considerably more detail than the others. He said that the initial application had more "undefined space," so the applicants came back with conceptual elevations of the stable, art studio and guest house, and the sites were more specifically identified as well. The conceptual elevations for those buildings provided information also about grading, septic systems, etc. Mr. Vlasic said that there were issues with the stable in particular, due in part to the scope of the grading the riding ring would have needed, after which the applicants changed the stable location to address concerns raised during a site visit and eliminated the riding rink, leaving the corrals.

The meadow was the biggest issue in terms of General Plan conformity, he said, which led to a full evaluation of General Plan issues in December of 2010, and as it pertained to the Meadow Preserve in particular, went specifically to the Town Council for direction.

Marianne Plunder, Kiowa Court, noting that the Open Space Element has changed within the last six months, asked whether the current version or the previous version would apply to this application. Ms. Sloan explained that when the Planning Commission sought the Town Council's direction on that matter, the Council discussed it and decided the Planning Commission should use the version that existed when the application was first filed. When Ms. Plunder asked which version was the most stringent, Chair McKitterick said that he wouldn't use the word "stringent," but that the versions are "different" because people interpret each one differently. Mr. Vlasic added that in their deliberations, the Town Council made it clear that neither definition fit exactly – which led to

Councilmember Toben's comment about "a square peg in a round hole." The old version seems to support some aspects of the application, Mr. Vlastic added, while the new version seems to support others.

Chair McKitterick said that he appreciated the correspondence from both WASC and the applicants, because it's helpful to have input on specific issues to consider. He indicated that the public is welcome to submit comments in writing as well. With no further speakers coming forward, Chair McKitterick declared that the public hearing would be continued on January 18, 2012 and brought the matter back to the Planning Commission for further questions and comments.

Vice Chair Zaffaroni said that one of her questions pertains to the staff report "Review and Evaluation" (page 13). It clarifies that the proposal is for developments that are accessory to the residential use of the property in a sentence that reads, "To be clear, the proposal is for accessory uses to an established and 'historic' residential use." The following paragraph, she noted, starts with, "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." Vice Chair Zaffaroni said that most applications may include a pool or a stable, whereas this application includes all of those accessory structures. In this context, she asked when an accessory use is no longer subordinate to a property's residential use. In response, Ms. Sloan said there's no bright-line definition, but accessory uses are typically smaller than the main residence – and there are restrictions on second units, for example. The other accessory uses are not residential units. Ms. Sloan further stated that the proposed use permit includes the increase in square footage as well as the agricultural uses.

If there were a proposal to add no additional structures but to do haying and gardening only, Ms. Sloan said the Town probably would have required a use permit, although that issue never came up. Mr. Vlastic said that the Zoning Ordinance allows both growing and sale of produce, although they're not proposing the sale of anything grown in the new vineyards or in the gardens. What this proposal involves, he said, is an estate kind of use – an unusual one, but still an estate kind of use.

In response to Commissioner McIntosh, Mr. Vlastic said that no use permit was required when the vineyards were installed. When the current owner bought the property and wanted to make more commercial use of the vineyards, growing and processing the grapes onsite, he sought and received a use permit and thus brought the vineyards into conformity. At this time, the new vineyards proposed are considered an accessory use related to the residential use, Mr. Vlastic said, but if the applicants ever choose to link any of these new vineyards to the winery operation, they would need an amendment to the winery operation's use permit to include them.

Commissioner McIntosh said that in a global sense, he sees this application and this project as well-vetted except for the meadow portion. Thus, the meadow component is what needs additional assessment, he said.

Commissioner Gilbert said that she's wrestling with two issues in the context of General Plan conformance. In regard to the acreage above the Meadow Preserve, she said that provided it's a small number of buildings, she's open to considering distributed versus clustered development as a way to minimize the impact, both in terms of land disturbance and visual impact. The second issue relates to the Meadow Preserve. Commissioner Gilbert read the "old" General Plan language defining the Meadow Preserve (in the Recreation Element):

*The Meadow Preserve is visually important to the entire quality of the valley. This preserve should be kept largely open, the existing character preserved, and the present agricultural uses maintained.*

She pointed out that despite some internal contradictions in the language, the Meadow Preserve is clearly a visual asset – which makes visibility an important consideration. Among the issues she's debating within that framework:

- The visual impact of a single use versus multiple uses, which might appear to chop up the meadow.
- The visual impact of fencing seven to eight feet tall.
- The idea of putting fruit trees in something called a "meadow."

Walking the trail from which Mr. Vlastic photographed views for his presentation, Commissioner Gilbert said that going north, past the area where small redwood trees were planted, she observed a large number of "volunteer" oak trees. The older oaks have some health issues, she noted, and there's also a lot of dead wood, particularly in the lower areas that no longer get sunlight. However, she suggested that thinning those trees would improve visibility to the meadow.

Addressing the issue of tree-thinning, Mr. Vlastic talked about his evaluation of the site with Mr. Young. The MROSD doesn't object to removing materials identified with spray paint if the Town pays for it, he said, but seems reluctant to remove anything in the area where the tree cover is denser. Another complication, he said, is that some of the trees are on private property, and the owners may not want to open up these views.

Commissioner Von Feldt referenced a section in the staff report dealing with "native" plant materials on the west side knoll. She said that she completely disagrees with the statement about tarweed being a pest. The plant, she said, is *Hemizonia congesta*, also called "hayfield tarweed" or "hayfield tarplant." It's locally native to the site, she said, and is unusual because it's one of the few natives blooming in August and September. She said the UC Agricultural & Natural Resources database labels the plant a "pest" only because cattle don't like to eat it when it gets to a certain stage. According to the USDA database, which Commissioner Von Feldt described as the official determinant of what is "noxious," this plant isn't considered noxious. Furthermore, she said, it can't be considered invasive because it's locally native.

She confirmed that this "tarweed" isn't identified as a sensitive, rare or endangered plant, and pointed out that other plants native to the west side knoll include native roses, which also can withstand occasional mowing. It relates to the "natural state" part of the General Plan, she said, and the condition of the plants on that knoll is very different from the plants in the rest of the meadow. The rest of the meadow is basically weedy, non-native thistles. She further stated that it's important to know which plants are native to which parts of the meadow, because if some meadow uses will be allowed, that knowledge will help determine where those uses would be appropriate and where they would not.

Mr. Vlastic said that he'd like to discuss such issues with Commissioner Von Feldt in more detail, because, he said, he's received some inconsistent information. He said he'd also like to accompany her and the applicants to walk the area and talk about it.

Commissioner Von Feldt, who said she feels that the Planning Commission actually has discussed the General Plan and conformity with the Open Space Element extensively in previous meetings, stated that some of her comments are similar to Commissioner Gilbert's in terms of clustered versus distributed structures and the Meadow Preserve.

In this case, Commissioner Von Feldt said that it might be more sensitive to the site to avoid forced clustering, because the sites selected are in natural clearings that are relatively flat, have no additional vegetation to clear, and are accessible from the existing road. On the other hand, she said, clustering might mean more grading and more vegetation clearance.

In the Meadow Preserve, she said, the Planning Commission's charge is to keep the area "largely open" and to encourage existing agricultural practices. Haying might make sense because it's occurred there previously. A greater concern, she said, involves the wildlife she sees every day when she drives past the Meadow Preserve. She doesn't like the idea of fences cutting off their access significantly, particularly access to the creek – because riparian corridors are highways for wildlife. She's also concerned about the possible use of pesticides; pesticides that control gophers also will kill the owls that feed on them.

Vice Chair Zaffaroni said that she agrees in large part with Commissioners Gilbert and Von Feldt. She addressed two components of the General Plan language: "largely open" and "existing character preserved." When there was agricultural use in the meadow, she said, it was haying only, but, she added, the idea of having a small area for food or row crops is not the same as transforming a large area.

Vice Chair Zaffaroni also pointed out that the applicants' letter indicated that only one-third of the Meadow Preserve would be under agricultural use, she said, but she believes that may be a bit misleading because it includes the open-space land. In fact, she said that it appears that agricultural uses would occupy half the Meadow Preserve, with seven additional acres devoted to agricultural uses. Mr. Vlasic indicated that the Meadow Preserve – as opposed to the meadow itself – does in fact include the MROSD property.

The overall extent of the development, as described by WASC, is something that Vice Chair Zaffaroni said she wants to go through, read carefully and analyze. As Mr. Day and Mr. Silver pointed out, she said, the lack of any kind of agreement regarding future development is an important factor that needs consideration. She called this the "elephant in the room."

Vice Chair Zaffaroni also requested a copy of the MROSD October 2011 letter.

Commissioner McIntosh said that Commissioner Von Feldt's concern about wildlife access needs to be addressed, but different kinds of agriculture uses, even more intense agricultural uses, don't bother him at all. Whether orchards or vineyards or row crops, he said he finds them interesting visual improvements. He said he appreciates the applicants' focus on agriculture and doesn't object to a 10-year life on the permit because they suggest more of a commitment to keeping meadow development to a minimum.

Chair McKitterick enumerated three issues.

- As for development of the upper part of the parcel, he said that minimal development seems consistent with the General Plan.
- In terms of the Meadow Preserve, he acknowledged that the General Plan language could be interpreted differently by different people, but at this point, he said he's inclined to approve the ag building and some type of agricultural use in the meadow, but he's particularly attuned to the scope and details of that use.
- On the idea of the *quid pro quo*, which is addressed in the staff report and was addressed in some of the public comments, he said the staff report may be more pessimistic than it has to be and in this circumstance, but he feels it appropriate to let the pros and cons of the application stand on their own merits.

Ms. Sloan, revisiting Vice Chair Zaffaroni's allusion to the "elephant in the room," said that neither she as Town Attorney nor Mr. Vlasic as Town Planner felt it was appropriate to get into a Williamson Act application at this time for two reasons. First, in one sense it's better for a Williamson Act contract cover only the portion of a property that is agricultural because that would sustain more property tax revenue. San Mateo County and the schools would bear the brunt of whatever tax revenue is lost, she pointed out, because the Town receives only a small portion of those funds. Secondly, because San Mateo County has been lax in handling, enforcing and monitoring Williamson Act contracts in the past, it would be difficult have a Williamson Act contract drawn up in a timely manner.

Vice Chair Zaffaroni said that her comment didn't relate to either involuntary conservation easement or Williamson Act contracts. She was referring to a voluntary agreement entered into by the Town and the applicants. As Chair McKitterick pointed out, this is what Mr. Day referred to as negative covenants.

Commissioner Von Feldt raised a question about process. She wanted to know whether the Planning Commission could amend the application to be comfortable with it and approve it as amended. Vice Chair McKitterick and Mr. Vlasic agreed that the answer is yes, but the applicants could appeal the decision. Mr. Vlasic recalled that the problem that surfaced the last time was that staff completed work on a modified application with reduced scope, but the applicants wanted a decision on the full-scope proposal. This time, the Planning Commission will begin with the full-scope proposal.

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

None.

APPROVAL OF MINUTES

The November 2, 2011 minutes of the Planning Commission meeting were approved as amended, with a 4-0-1 vote. (Commissioner Gilbert abstained.)

ADJOURNMENT 10:27 p.m.

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Nate McKitterick, Chair

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Leslie Lambert, Planning Manager