



TOWN OF PORTOLA VALLEY
REGULAR PLANNING COMMISSION MEETING
765 Portola Road, Portola Valley, CA 94028
Wednesday, February 1, 2012 – 7:30 p.m.
Council Chambers (Historic Schoolhouse)

AGENDA

Call to Order, Roll Call

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

Oral Communications

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

Regular Agenda

1. *Preliminary review of Permit Appeals Periods and Time Limits*

Nomination of Chair and Vice-Chairpersons

Commission, Staff, Committee Reports and Recommendations

Approval of Minutes: January 18, 2012

Adjournment

ASSISTANCE FOR PERSONS WITH DISABILITIES

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

AVAILABILITY OF INFORMATION

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

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

PUBLIC HEARINGS

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

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

Date: January 27, 2012

CheyAnne Brown
Planning Technician



MEMORANDUM

TOWN OF PORTOLA VALLEY

TO: Planning Commission

FROM: Tom Vlastic, Town Planner
Karen Kristiansson, Principal Planner

DATE: January 20, 2012

RE: Permit Appeals Periods and Time Limits

Background and Action Before the Planning Commission

In the last fiscal year, two appeals were filed on planning decisions and one was withdrawn. During review of the appeals and discussion of the appeal process with the town attorney, some issues were identified with the town's current appeal procedures and time periods associated with the procedures. These matters were considered by staff, including the town manager, and it was agreed that the current appeal provisions should be reviewed and, as found necessary, revised as soon as possible. This work is included as part of the 2011-12 planning program under the approved budget item identified as "Review and Update of Zoning Ordinance."

This memo reviews the town's current appeal procedures and recommends reducing the appeal period for variances and conditional use permits to 15 days after a decision. In addition, this memo also recommends revising the time limit for site development permits when they are processed together with an architectural review, so that a single two-year time limit would apply to both permits. Some changes to the time period for exercising variances and the addition of a time limit for fence permits are also recommended.

Draft zoning and site development permit ordinance text amendments are attached. If the planning commission concurs with the recommended changes, the commission should direct that they be set for formal public hearing.

Appeal Periods

The town currently has two appeal periods. For a site development permit, an architectural review approval, or a zoning permit, the appeal period is 15 days after the determination. For a variance or a conditional use permit, however, the appeal period is 30 days after the applicant receives the notice of the decision. To get a sense of the common practice in the

area, town staff surveyed five other jurisdictions: Woodside, Atherton, Hillsborough, Los Altos Hills, and Menlo Park. The results are summarized in the following table.

Town	Action	Appeal Period
Portola Valley	Site Development Permit Architectural Review Zoning Permit	15 days from the determination
Portola Valley	Variance Conditional Use Permit	30 days from receipt of notice of decision
Atherton	Any action under zoning code	10 days from decision
Woodside	Any action under zoning code	10 days from decision
Hillsborough	Architectural & Design Review	15 days from meeting
Menlo Park	Any Planning Commission action	15 days from action
Los Altos Hills	Any Staff Committee action	10 days from action
Los Altos Hills	Any Planning Commission action	23 days from action

Portola Valley's 30-day appeal period for conditional use permits and variances is substantially longer than any other jurisdiction surveyed. The long appeal period delays the effective date of the decision and adds uncertainty to the process. Another issue is that Portola Valley's conditional use permit and variance appeal period starts on the "date of the receipt of the notice of the decision." This means that if a notice of a decision is not sent immediately by messenger or certified mail, the appeal period could be longer, or the time when the appeal period starts could be unclear. To bring more certainty to the process and to bring the town's regulations more in line with the common practice in the area, these appeal periods should be shortened and should start as of the date of the decision.

Either 10 days or 15 days would be appropriate for the appeal period. Because the town already uses a 15 day appeal period for site development permits, architectural review approvals and zoning permits, the simplest approach would be change the appeal period for variances and conditional use permits to 15 days as well. If the town prefers to have a 10 day appeal period, this should be changed for all of the types of applications and approvals, so that they all have the same appeal period. In our opinion, however, the 15 day period is reasonable and provides a fair opportunity for anyone impacted by a decision to consider and file an appeal. Therefore, the proposed draft zoning ordinance changes provide for a consistent 15 day appeal period from the date of the decision.

Time Limits

Currently, a site development permit expires if work has not started within 180 days of permit approval, or is not completed within one year. The Town Engineer (i.e., Public Works Director) may grant an extension if the applicant can show evidence of "unusual difficulties." An architectural review approval expires if no building permit is pulled within two years, and no extensions are allowed.

A number of applicants in Portola Valley need both a site development permit and an architectural review for a single project. Because the architectural review approval is valid for two years but the site development permit lasts only for six months, an applicant may need to apply to extend a site development permit up to three times during the course of a

project. In practice, particularly during the current recessionary period, the town already often extends site development permits linked to architectural review actions when the permits have not been exercised in the 180-day time period. To simplify this type of situation and avoid confusion and unnecessary burdens on applicants/property owners, we recommend that the site development ordinance be amended to allow a two-year time limit for site development permits that are issued concurrently with architectural review approvals. For site development permits where an architectural review action is not involved, such as grading of 50 to 100 cubic feet, the 180 days still appears appropriate, especially since the Public Works Director can extend the permit life pursuant to provisions in the current ordinance.

The time limit for exercising a conditional use permit is one year unless a different time frame is specifically identified by the planning commission in the conditional use permit approval. We believe that these provisions for exercising a conditional use permit are still reasonable and see no need for change.

Currently, regulations provide that a variance must be exercised in 180 days, unless otherwise established in the actions granting the variance. Given the effort to secure a variance approval and the reality associated with processing permits for architectural review and building associated with any variance project, we believe a variance approval should be valid for at least one year. In cases where a variance approval is associated with an architectural review approval, the time period to exercise the variance should be the two years associated with architectural review approvals.

Finally, there is no time limit on a fence permit under current regulations. Because conditions on and around a property can change over time, however, a time limit for fence permits is recommended. As for variances, a one year time limit appears appropriate for fence permits, unless the fence permit is issued as part of an architectural review approval. In that case, the two year time limit for the architectural review approval should control.

The attached draft ordinance amendments show these recommended changes.

Town Attorney Review and Next Steps

The above recommendations and attached draft ordinance amendment language have been reviewed by town attorney, and she supports the proposals. If the Planning Commission agrees with these recommended changes, the next step would be to set the ordinance amendments for public hearing before the commission. Eventually, the planning commission recommendations on the changes would also need to be considered at public hearings before the town council.

Recommended Municipal Code Text Amendments

Chapter 15.12 Site Development and Tree Protection

15.12.390 – Expiration of permit.

- A. ~~Every~~ A site development permit shall expire by limitation and become null and void if the work authorized by such permit has not been commenced within one hundred eighty days, or is not completed within one year from date of issue. ;
- B. Exceptions:
1. ~~except, that~~ The town engineer may, if the permit holder presents satisfactory evidence that unusual difficulties have prevented work being started or completed within the specified time limits, grant a reasonable extension of time if written application is made before the expiration date of the permit.
 2. Where a single project requires both a site development permit and an architectural review approval from the ASCC, and those permits are considered and issued together, the site development permit shall have the same expiration period as the architectural review approval.

Zoning Ordinance Amendments

Chapter 18.34 Administration

18.34.150 – ~~Unexercised variance—Expiration—Renewal.~~

- A. A variance granted by the board of adjustment or council becomes null and void if not exercised within the time specified under Section 18.68.120, or if no date is specified, within one ~~year~~ ~~hundred eighty days~~ following the date on which the variance becomes effective, unless:
1. The use has commenced; or
 2. A building permit has been issued by the building inspector and construction started and diligently pursued toward completion on the site which was the subject of the variance; or
 3. A certificate of occupancy has been issued by the building inspector for the site or the structure which was the subject of the variance.
 4. Where a single project requires both a variance and an architectural review approval from the ASCC, and those permits are considered and issued together, the variance shall have the same expiration period as the architectural review approval.
- B. A variance may be renewed for an additional period of one ~~year~~ ~~hundred eighty days~~ provided that prior to its expiration an application for renewal of the variance is filed with the board of adjustment. The board of adjustment may grant or deny an application for renewal of a variance.

Chapter 18.43 Fences

18.43.080 – Fence permits and administration

- A. Fence permits are required for construction of all fences built within required yards, except as otherwise specified in this section. Fence permit applications shall be made on a form provided by the town planning staff and shall be accompanied by plans demonstrating the design and materials of the proposed fence, the location of the proposed fence and any associated landscaping. A fee shall be paid to cover the cost of review by town planning staff, or on referral, by the town planner. Prior to approving a

fence permit, town planning staff shall give written notice to owners of adjoining properties of the permit application. Prior to acting on a permit, town planning staff shall review the proposed design and location in the field, review the plans for conformance with the zoning ordinance and design guidelines, and consider comments from owner(s) of adjoining properties. Town planning staff may take action on a permit or refer it to the ASCC. Written notification shall be given to owner(s) of adjoining properties at least six days prior to action by town planning staff or the ASCC. Any town planning staff decision may be appealed by an applicant or an owner of adjacent property to the ASCC. Any ASCC decision may be appealed by the applicant or an owner of adjacent property to the board of adjustment.

- B. Fences within required yards that are no more than two feet in height, and no more than twenty feet in total length shall be exempt from this section but shall meet all other provisions of this chapter except Section 18.43.040 regarding opacity.
- C. The ASCC shall have the authority to review existing fences and fence permit applications under the following conditions:
 - 1. Upon referral from town planning staff, pursuant to Section 18.43.080.A.
 - 2. When acting on architectural review and site development permits, the ASCC shall consider and may require modifications to existing fencing on a property if the ASCC determines that there is a substantial modification to an existing residence or the site improvements of the property. If, in these situations, the ASCC determines that the existing fencing is not in conformity with current fencing standards, the ASCC may require conformity with the fencing regulations. In requiring conformity, the ASCC shall make the finding that the modified or replacement fencing will not result in an adverse effect on neighboring properties and reasonably adheres to the purposes of this chapter.
 - 3. When a fence permit application demonstrates that the proposed fence cannot conform to the regulations given the conditions on the parcel, the ASCC may grant relief from the fence regulations. In making such determination, the ASCC shall as much as reasonably possible ensure the proposed fence achieves the purpose and principles of this chapter set forth in Section 18.43.010.
 - 4. When a fence permit application is submitted for a proposed fence in the Mountainous-Residential (M-R) or Open-Area (O-A) zoning districts, the ASCC shall, with input from the Conservation Committee, make a determination of compliance based on the purposes of this chapter and the fence design guidelines adopted by the town council.
- D. When a portion of a fence exceeding twenty-five percent of the total length of fencing within required yards on a property is damaged or voluntarily removed, any replacement fencing of that portion shall conform to the fence regulations pursuant to a fence permit.
- E. A fence permit becomes null and void if not exercised within one year following the date the fence permit is approved, except:
 - 1. Where a single project requires both a fence permit and an architectural review approval from the ASCC, and those permits are considered and issued together, the fence permit shall have the same expiration period as the architectural review approval.

Chapter 18.70 Board of Adjustment**18.70.080 – Findings and decisions—Effective date—Appeal or review by council**

The board of adjustment shall act within fourteen days after the conclusion of the public hearing. Action shall be by resolution which shall set forth the findings of the board of adjustment and any recommended conditions and any specific findings or recommendations specified under the chapter of this title dealing with the specific action. Any action shall be by a majority of all voting members. The decision of the board of adjustment is final on the ~~thirty-first~~ fifteenth day at the close of business hours following the date of decision of the board of adjustment, unless the town council elects to review the decision or unless an appeal is taken to the council.

Chapter 18.72 Conditional Use Permits**18.72.200 – Issuance of conditional use permit—Effective date**

Immediately following planning commission approval of a conditional use permit application, the secretary of the planning commission shall cause a formal conditional use permit to be issued to the applicant. The conditional use permit shall become effective on the ~~thirty-first~~ fifteenth day at the close of business hours following the date on which the permit is approved.

Chapter 18.78 Appeals to and Review by Town Council**18.78.022 – Appeal to be filed when**

Within ~~thirty~~ fifteen days from the date of ~~the receipt of the notice~~ of the decision which is to be appealed, a written notice of appeal, specifying the grounds of appeal, must be filed with the agency from whom the appeal is made and with the clerk of the council.