

PLANNING COMMISSION MEETING, TOWN OF PORTOLA VALLEY, JANUARY 18, 2012, 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

ORAL COMMUNICATIONS

None

REGULAR AGENDA

- (1) Referral for Concurrence: Zoning permit request for office occupancy, 130 Portola Road, Bennicas and Associates, Conditional Use Permit (CUP) X7D-135 (Pollock)

Referring to the staff report of January 12, 2012, Mr. Vlastic indicated that the owner of the building at 130 Portola Road has put forth a number of possibilities for rental of his space, and although the tenant currently proposed -- Bennicas and Associates -- doesn't yet do at least 50% of its business in the community, it has been building its local clientele base and appears as if it will meet that requirement within a reasonable timeframe.

Chair McKitterick inquired about the language of the relevant zoning provision. Mr. Vlastic said that the use should serve the Town and its sphere of influence (i.e., the planning area) within a reasonable period of time. The majority of its business has been interpreted to be 50% or more. Typically that would be a two-year period, but that is not mandated, and in this case he said it might take a bit longer, he said.

Vice Chair Zaffaroni asked for more information about the proposed tenant. Mr. Vlastic said that Bennicas and Associates is an investment adviser. From the audience, Georgia Lee Bennicas said that she is a registered investment adviser who works on a fee basis with assets under management, and that she will be focusing primarily on clients with individual securities, including liquid and community accounts. She said that she's had an office in Woodside's Gilbert Center for 29 years, and wants to move because most of her clients live in Portola Valley and some of them have trouble negotiating the stairs at her current location. A Portola Valley resident, she noted that the move would reduce her commute from nine to three minutes.

Chair McKitterick invited comments from the public.

Will Patterson, Stonegate Road, said that Ms. Bennicas recently took over management of the Menlo Park Rotary Club's charitable foundation, with about \$2 million under management, and that several other members of the Rotary Club live in Portola Valley and at The Sequoias. The charitable foundation primarily provides scholarships for local graduating seniors, he said.

Chair McKitterick said that he's inclined to agree with staff's recommendations, based on the projection that over four years' time, at least 46% of the firm's clients will be Portola Valley residents and the fact that the type of business will keep traffic from client visits to a minimum. Commissioner McIntosh agreed, as did Vice Chair Zaffaroni, who noted that the zoning code also limits commercial development to a certain percentage of outside business due to the potential impact on traffic. Commissioners Gilbert and Von Feldt said they also support staff's recommendation.

Commissioners concurred 5-0 with staff's recommendation.

- (2) Public Hearing: Review of Conditional Use Permit (CUP), Application X7D-169, request to permit additional floor area, impervious surface area and related agricultural uses on 229-acre parcel, 555 Portola Road, Spring Ridge LLC (Dr. Kirk Neely/Holly Myers)

Mr. Vlastic indicated that the January 12, 2012 staff report, a supplement to the December 2, 2011 staff report, reviews discussion from the December 7, 2011 public hearing, considers comments received on the proposed mitigated negative declaration, responds to General Plan issues expressed, and addresses points raised by the Westridge Architectural Supervising Committee (WASC), Midpeninsula Regional Open Space District (MROSD), and Beverly Lipman. The January 12, 2012 staff report also incorporates conditions that have been modified to deal with a number of the matters discussed, including elimination of the Williamson Act as a factor limiting the timeframe of the permit to essentially five years. Likewise, concerns about the knoll led to removing it from the more intensive agricultural use within the meadow area. He said that if the Planning Commission decides to move ahead, based on the previous hearing and what emerges tonight, it could do so with minor modifications within the structure provided. However, if the Planning Commission wants to see more significant changes in the plans made before reaching a decision, further discussions with the applicants would be necessary.

Chair McKitterick raised the issue of whether there would be any new road use in the meadow. Mr. Vlastic said that the site plan shows the existing dirt path that's been used in the past, and nothing is proposed to change it. In response to Commissioner Gilbert, he explained that the existing path would be used for meadow maintenance and hauling cut hay, and the CUP provides for nothing more. He said that some increase in use is likely, but the harvesting season is limited.

Commissioner Gilbert posed several questions:

- Whether a separate fence is proposed around the vegetable garden area. Mr. Vlastic said that the plan shows fencing around the vineyard and vegetable garden, but does not identify a specific fence between the proposed vegetable garden and the existing vineyard. The two orchard areas would be fenced. Commissioner Gilbert said she assumed a secondary fence around the vegetables would be necessary because the bottom portion of the vineyard type of fencing wouldn't keep small critters out. If a secondary fence comes out in the detailed plans, Mr. Vlastic said it would be evaluated at that time.

Mr. Vlastic said that the applicants described a post-and-wire fence, and that statement is incorporated by reference in the proposed use permit proposed. If something dramatically different is proposed, it would be examined for conformance with the permit.

- What might happen with the driveway. Mr. Vlastic said that the most extreme possibility would be to move the driveway south, but he's hopeful that two flares can be avoided by having the driveways associated with the neighboring property corrected to be consistent with its permits. He said that a widening of the existing driveways would work if tree, drainage culvert and catch basin issues can be resolved. Commissioner Gilbert said that she asked about this for two reasons – the implications for the CEQA document as well as the aesthetic impact.
- Whether the applicants are comfortable with the additional trees now indicated in the northwest corner of the proposal. Mr. Vlastic said that change was the applicants' decision.
- Whether anyone on Spring Ridge Trail would hear noise from the cabaña/entertainment center. Mr. Vlastic said that presumably, the sound of hammering on that site would travel a long distance on a very still night. However, he explained that probably would not be the case under normal conditions and during the normal course of a day. He said that when doing a much more detailed map of a far noisier issue, which was associated with The Sequoias, the facility's chillers and other noise sources from that site were influenced by such factors as time of day, air flight and vehicular traffic. He said that the way the sounds from the Portola Road traffic carried surprised him, but it would take a considerable amount of noise, given the experience of The Sequoias, to be able to hear it on Spring Ridge Trail.

Furthermore, Mr. Vlasic said, the matter before the Planning Commission involves a residential accessory use rather than a community use, and in such cases, the Town has not imposed the burdens of modeling, monitoring and so forth. For example, he said that such requirements have not applied to homeowners near Jasper Ridge nor the Kabcenell project. And he pointed out that noise concerns didn't involve trail impacts in The Sequoias' situation, but rather impacts on adjacent residences.

- The function of the impervious surfaces related to the guest house and art studio. Mr. Vlasic said that it would be the hardscapes around the structures, driveway access and parking. They would be graveled, not paved.
- Whether external, amplified music would be allowed at the cabaña/entertainment center. Mr. Vlasic said that the word "entertainment" came from the Town's policy statement on accessory structures. Other factors also govern the use of such structures, he said, including compliance with the Town's noise ordinance (which would not necessarily rule out external, amplified music). Further, using the building as a regular meeting place would be inconsistent with an accessory use and would thus make the use permit subject to review.
- Whether cabaña/entertainment center story poles were visible from Spring Ridge Trail. Mr. Vlasic said that no site meeting was held there to view from that perspective, but a representative of MROSD indicated no problem with it. Still, he added, the way the condition is worded, at the building permit stage the Town would take another look at whether additional screening is necessary.
- What would be the source of the water in the "greywater sink" referenced in the ag building discussion. The greywater would be wastewater from meadow irrigation, Mr. Vlasic explained, but details regarding that facility would have to meet health department requirements. The water piped to the meadow area for irrigation would come from the spring.

Vice Chair Zaffaroni also had some questions.

- Location of MROSD boundaries with respect to the different structures. Trails have an impact on visitors to the preserve, she agreed, but the preserve is also a wildlife habitat. As Mr. Vlasic explained, the cabaña/entertainment center would be about 400 feet from Bozzo Gulch, which is the boundary line, and about 1,500 feet from the active-use trail. The existing barn, serving the vineyard, is probably within 100 feet of the boundary. The art studio would be about 500 to 600 feet from the boundary.
- Whether the clustering concept does not apply to CUPs. Mr. Vlasic, noting that provisions for clustering are based on the number of residential units in a development, recalled that clustering diagrams created during work on the General Plan were based on how many properties could be developed on the parcels in question. Vice Chair Zaffaroni quoted from Zoning Ordinance Chapter 18.10.010-D: "To provide for grouping or clustering of residential structures where appropriate in order to preserve the natural amenities and open space qualities of Portola Valley." In this instance, she pointed out that it didn't mention subdivisions. Likewise, she cited the General Plan 2104.3 as discussing residential areas broadly but not specifically: "To provide for the grouping or clustering of residential buildings where this will maximize the opportunity to preserve natural beauty, habitat and open space". . ." In this instance, too, she said there's no limitation to subdivisions. Mr. Vlasic said that the Commission could consider grouping of buildings, but staff found that the siting of the buildings has been done in such a way as to take into account areas that would have minimum impact and could be developed with minimum grading. To cluster all of those buildings into an area such as shown in the General Plan would also have an impact, he said.
- Following up on the Town Attorney's letter discussing a nexus to link development to public benefit. Ms. Sloan said that she had used square footage as an example, and the same analysis would apply to the impervious surface area. She said that it would be appropriate to look at the additional square footage and additional impervious surface area requested in the context of possibly seeking a nexus to perhaps get an easement for the Town for a trail along the road. Mr. Vlasic said that regulations allow for roughly 30,000 square feet of floor area and impervious surface combined for parcels up to 10 acres. In this case, the applicants are seeking an additional 56,000 square feet.

- Language to ensure having projects completed once they are started. She said she is unclear about the meaning of the clause in Condition 2: “. . . the permit shall remain in effect for the uses under construction until such time as other Town approvals may be granted for uses or improvements that would supersede the provisions of this permit.” Mr. Vlastic explained that if the owners exercise some provisions of the permit but others expire, the provisions that govern development on the rest of the property remain in effect because extra floor area has been granted. Ms. Sloan added that one of the reasons it’s difficult to determine an endpoint is that once something is under construction, the California Building Code takes effect and allows a certain lag time, e.g., up to six months between inspections.

Vice Chair Zaffaroni explained that it’s a concern because it isn’t until the finishing aspects of a project that the visual impacts tend to be minimized. She mentioned cases in which people start to put up fences, and years later, the posts stand without fencing. Mr. Vlastic suggested adding language to the effect that any project under construction within this time period shall be completed in a timely manner. If the time gets to be unreasonable, the Town can invoke its right to review the CUP.

Commissioner Von Feldt requested clarification as to whether any grading or clearing would be needed for the sites identified for the cabaña/entertainment center, guest house and art studio. Mr. Vlastic said that clearing would be limited to removing some grass and brush to accommodate construction, and some tree-trimming may be needed at the art studio and guest house.

Commissioner Gilbert quoted an excerpt from the WASC letter of January 6, 2012: “. . . County Health and Fire Departments have made clear [that] the proposed hillside developments will require significant, yet-to-be determined additional clearing and grading for sanitary waste treatment and fire prevention.” Mr. Vlastic said that the County Health Department has indicated that it will want to review details for the septic system, but the areas for the septic system are feasible, not on steep hillsides and not in areas that have tree cover. If the County comes back requiring more, it may create disruption and a change from the current understanding. Mr. Vlastic also said that the Fire Marshal drove the site with the design team before issuing a statement indicating that she felt comfortable with the road work and that she could get to the site up above. Water tanks for spring water and fire safety on the upper development are provided for in this proposal as they have been for other projects in Town. However, he added, in terms of significant clearing or site disturbance, the sites have been examined. They have open areas and adequate geology, and based on site checks, he said, nothing suggests a need for substantial clearing.

Commissioner Von Feldt had questions about views and inclusion of site plans in the CUP.

- She recalled being unable to see Westridge from the cabaña/entertainment center, guest house and art studio, but asked whether further offsite view analyses have been done. Mr. Vlastic said that story pole views have been checked from locations around Town, particularly at Portola Valley Ranch. Story poles placed for the greenhouse were also visible – which is why it was changed. He said no other story poles were seen in any dramatic way from any of the locations checked. The visual analysis from Westridge indicates that the cabaña/entertainment center, guest house and art studio sites are well-buffered in terms of their visual presence, he added, but he cannot state that no one will see these buildings from anywhere in Town.
- A considerable amount of important information is included in the site plan, such as how many acres are used for what type of crops, how the project will be phased, what will happen to significant oak trees, etc. Mr. Vlastic said that these plans are specifically included in the use permit, and if any variations substantially exceed the provisions of the permit, it would come back to the Planning Commission. Ms. Sloan pointed out that just before the conditions, the CUP itself states, “The scope of existing and proposed site improvements . . . is shown on the plan data listed under Condition 7,” and Condition 7 lists all the sheets from the site plan.

Commissioner McIntosh wanted to hear about Commissioner Von Feldt’s site visits. In response, she said that she and Mr. Vlastic went out with the applicant shortly after the December 7, 2011 Planning Commission meeting. The applicant agreed to move some fences back to enlarge the wildlife corridor and to protect some of the sensitive vegetation, and changed the use of one segment from vineyard to orchard.

Chair McKittrick reopened the public hearing continued from December 7, 2011.

Beverly Lipman, Favonia Road, said that her letter of January 5, 2012, left no doubt about her feelings about the proposal. She recalled that during the December 7, 2011 session, Commissioner Gilbert asked whether the meadow was still a meadow if it was an orchard; Ms. Lipman wonders if a meadow is a meadow with a vineyard in it. The definition of a meadow is grassland. She also noted that the MROSD representative, Tina Hugg, had questions about vineyards as well as additional fruit- and vegetable-growing, and that Linda Elkind, a former Planning Commissioner, was very concerned about plans for additional vineyard plantings because they would be contrary to the General Plan definition of open space – which is mostly for preservation of natural vegetation. As for the “existing character,” today it’s an open field full of weeds. She said that the Town may be due for a discussion about “vineyard creep.” Ms. Lipman said that the applicants previously stated that the ag building would hold 1,500 bales of hay, and that at the December 7, 2011 meeting Commissioner Gilbert noted that the ag building provided for haying operations only, with no provisions for handling fruit and vegetables. However, she said, according to Mr. Vlasic the building also might be used to stage crops for pickup.

Going back a year earlier, Ms. Lipman recalled talk about a different meadow location for the ag building. She quoted Mr. Vlasic from the December 8, 2010 staff report for the Planning Commission meeting on December 15, 2010): “Fundamentally, the statements in the General Plan reflect and underscore the importance of the meadow preserve to the greater Portola Valley community. It’s one of the most significant physical features of the entire community and to many symbolizes Portola Valley. The meadow, while perhaps not as regionally recognized as Windy Hill, is nonetheless a significant and recognizable feature for the greater Mid-Peninsula community. . . . Its visual presence should be preserved and it should not be surrounded with plantings to screen views to the agricultural activities, even if plantings are of the most appropriate native species. The meadow needs to be visually embraced and not separated from the community.” Thus, Ms. Lipman said, “Let there be hay, but let’s see it.”

Bill Kaspari, Willowbrook Drive, said that what strikes him is that there seems to be a concern about people being able to see the buildings the applicants propose. He’s more concerned about seeing the meadow. He said that he recollects driving into Town many years ago and seeing the meadow. Now, even walks along the trail there, he can’t see it. He’d like some of the trees removed that line Portola Road from one end to the other and block the meadow view.

Commissioner Von Feldt indicated that the Conservation Committee has been working with the Town to thin some of the trees on the easement in front of the MROSD land. Also, the trees that the applicant planted along Portola Road will be removed. She said that neither of those changes would really open the viewshed, but they might make it somewhat better.

Jon Silver, Portola Road, said that he agreed with Ms. Lipman and Mr. Kaspari. He also said that he finds himself in agreement with many statements that Ms. Lipman and the WASC made in their letters. He said that he wants to be supportive of the applicants making reasonable use of their land, but not in the meadow. One building in the meadow has an impact disproportionate to the size of the meadow, he said, arguing that on 229 acres there must be better locations for an agricultural building. He said that he believes it’s sensible way to follow existing language about the Meadow Preserve, which he believes goes back to the time when he was on the Town Council (1978-1993). Haying was an historic operation, and is important. Mr. Silver also said that he doesn’t think case law supports a “square foot to square foot” way of approvals versus mitigations.

Will Patterson, Stonegate Road, also agreed with previous speakers. He said that he and others on Stonegate Road as well as in the upper parts of Westridge enjoy fabulous views of the meadow. Ever since moving to Portola Valley 23 years ago, he’s considered the meadow an integral part of the Town and wants to see it preserved as a meadow. He doesn’t think that a haying operation, which has been going on for years, disturbs anything, but he opposes structures and agricultural plantings in the meadow.

Rusty Day, Piñon Drive, speaking for WASC, said that this proposal contains extensive visual impacts throughout Westridge, and one can indeed see the building sites proposed from there. The issue is whether and how the Planning Commission applies the General Plan, he stated, noting that Portola Valley was one of the first communities in California to put a General Plan in place to restrict development. He said that he’s disturbed to see the General Plan turned upside down, and pointed out that the Town was founded for the purpose of preserving its rural character, particularly the pristine vistas on the western hillsides.

Mr. Day stated that he knows how to take information out of context and make an argument, and has seen it done many times, as is being done in this case with respect to the General Plan. Showing the General Plan diagram, he pointed out Spring Ridge, Westridge, The Sequoias, the Meadow Preserve, Woodside Priory and Town Center. He indicated where residential development was meant to occur and what was to remain open space. He also noted that the proposed cabaña/entertainment center and guest house sites are on Spring Ridge.

Mr. Vlastic indicated where the applicants plan to build, noting that these locations have been on the map and defined in all of the documents. He pointed out the existing historic Conolley-Melchor House, where the applicants live, and the historic site of the Bozzo house and barn on the upper part of the property. Spring Ridge, he said, is fully on MROSD property.

Chair McKitterick said that his understanding from staff and his reading of the materials, is that this development is not on the Spring Ridge referenced in the General Plan.

Mr. Day argued that it's the applicants' burden to show where on the General Plan they propose to build. He said that last week Town staff indicated that Residential Area 12 is implicated by the cabaña/entertainment center and guest house – the first time, according to Mr. Day, that staff has informed the Planning Commission of that. Residential Area 12 specifically spells out that development is disfavored, and General Plan Section 2129 states, "The barren ridge leading up to Windy Hill from the east is a visually dominant feature of Portola Valley and highly noticeable from much of the Midpeninsula area." He said now we're told this isn't that barren ridge, but we're developing on it because it's barren. Section 2129 continues, "It should remain in its natural state to the maximum extent possible. Development which might go on these lands should preferably be located elsewhere on the same parcel of land. If any development takes place in this area, extreme care should be taken to ensure absolute minimum disruption of existing visual characteristics."

As for Residential Area 11, Mr. Day quoted from General Plan Section 2126: "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." He said the General Plan was written specifically to address the ridge line being discussed, and further stated that it encourages clustering development in the knolls and valleys rather than on the ridge crest.

Pat McGuire, Corte Madera Road, said she'd be very disappointed if the Planning Commission approves this proposal, and thought the late Bill Lane would also.

Annaloy Nickum, Alpine Road, said that with the wildlife corridor enlarged, she assumes the wildlife will graze through the hay area and into the remnant of the meadow. In response to a question about fencing, Mr. Vlastic pointed out where there's a gap. Ms. Nickum said that her main concern with this project is the meadow area, and she believes the application of ag uses has crossed the line. She said there's been no agricultural activity in the meadow since the 1950s or 1960s, and agricultural uses were confined to a short period of time. Now, she said, the applicants propose to reduce the meadow by two-thirds with intensive agricultural uses and haying. As a landscape professional in the restoration industry who hails from the Midwest, she said she knows hayfields. With dry farming, water wouldn't be a problem, but hayfields require planting, with wheat, timothy, rye or wide grasses, as well as frequent tilling of the soil. The frequent tilling turns up weeds that exacerbate the problem of exotic grasses coming in and destroying native bunch grasses. In other words, she said that haying isn't a benign use of this land.

Ms. Nickum said that she doesn't understand the "minimal" use of pesticides in the organic farming proposed. She's concerned about that because any pesticides used can get into the watershed. Equally, she's concerned that controls on wildlife, which will become pests to agricultural uses, aren't defined in the proposal at all.

Mr. Vlastic said that the plans for the meadow area have been specifically modified to eliminate any use of pesticides. He also indicated that the ASCC review resulted in a recommended condition to require a detailed plan for controlling invasives, as part of a detailed plan for agricultural uses.

Danna Breen, Alpine Road, said that she's speaking in support of the application because she considers it a reasonable use of the land. She said she's seen all the plans for the structures and feels they're fairly well-screened from offsite view, that they're well-designed and well thought out. She said the barn in the field is consistent with other ag buildings in the Scenic Corridor, with the Jelich property and so on. She said that it would be hard to say that Portola Valley is moving in the direction of sustainability if we fail to embrace the idea of producing local food, and pointed out that the Neely children are farmers. She also said that she knows the Neelys and they've been great stewards of the land. Change happens, she said, and even the fact that buildings are getting lighter conflicts to some degree with the General Plan and historic decisions.

Edith Collin, Cervantes Road, who said she's lived in Portola Valley for 35 years, recalled two major developers that came in. The first wanted to build 105 estates on Spring Ridge, and the Town rejected the proposal. The second developer came along and worked the deal. She said that the Town fought hard for the open space there, and she still agrees with that, so she's surprised that wasn't written into the General Plan. A building that goes up might be there for 100 years, she said. Further, she said that as she understands it, creating a vineyard requires sterilizing the ground, putting poison in "like crazy" to get rid of gophers, moles and other factors that might upset vines taking root, and she'd like to know that someone has checked into that. She said that some jurisdictions are going after dairy farmers because they're putting "horrible stuff" into the soil near the schools. On New Year's morning, she said, her husband encountered four coyotes singing in the meadow, but with a building there and tractors going in and out, that won't happen anymore, and the deer won't come anymore regardless of the width of the corridor. She said that the applicants' proposal seriously erodes the spirit of what created Portola Valley and one of the reasons she moved here and remains here.

Steve Toben, Santa Maria Avenue, said he came to speak in strong support of the proposal, and hoped the Planning Commission would consider its reasonable nature as well as the totality of the development, and approve it. He said he's heard nothing to support the idea that anything in the proposal would contravene the General Plan, noting that the scale of the development proposed relative to the size of the parcel argues in favor of the project. He said he's particularly concerned about objections to the cabaña/entertainment center at a high elevation on the basis of significant visual or other offsite impacts on residents or trail users, indicating that the evidence suggests very differently, that this *de minimus* proposal contrasts sharply with projects the Town has addressed historically. With regard to agricultural uses, he agreed with Ms. Breen's comments about the importance of thinking about agricultural production within the community. Further, he said he doesn't consider an ag building in the meadow inappropriate, particularly in the context of the size of the building proposed, nor does he believe row crops would interfere with the open-space character of the meadow. As for fencing, a proposal to fence the backstop area on the softball field prompted a great deal of hue and cry about its impact on views of the hills, but he's aware of no such objections raised since that fencing was installed.

Judy Murphy, Portola Green Circle, said she's lived in Portola Valley for 22 years and serves on the Conservation Committee. She said that she appreciates the applicants' great efforts to listen to all of the objections and alter their plans accordingly, but continues to object to plans involving the Meadow Preserve. She called it one of the Town's most important parcels, offering an iconic view and the best wide-open view of any hill. She quoted from the General Plan (Section 2126): ". . . meadow adjacent to Portola Road and Town Center [shall] be retained . . ." and from Section 2216-2: "This preserve should be kept in a natural condition and the existing agricultural character preserved." She said that she's sympathetic to much of what Mr. Toben said, but fencing several acres of row crops isn't the same as fencing at a softball field's backstop. Ms. Murphy also expressed concern about setting a precedent that would lead to degradation of other open spaces and natural vistas that residents assume are protected by the General Plan. She also concurs with much of what Ms. Nickum said about haying, but pointed out that haying falls within the rubric of what the General Plan allows. She said the Conservation Committee strongly recommends no changes be allowed that would affect the existing use and character of the Meadow Preserve, and wants the Planning Commission to adhere to the spirit of the General Plan.

Mr. Silver said that listening to other speakers sparked some additional thoughts. He said that with some relatively small modifications, this application could be worthy of Planning Commission approval, but it isn't yet at that point because it isn't yet consistent with the General Plan. The barn can be moved out of the meadow without placing it in some inconvenient, remote location. He suggested an open-space easement over the meadow. He said that he agreed with what Mr. Day read about Residential Areas 11 and 12, and doesn't believe that wording was intended to apply solely to what is now MROSD land. He said that Mr. Day also made very good arguments for saying structures higher up on the property perhaps do make sense.

With no other speakers coming forward, Chair McKitterick closed the public hearing and brought the matter back to the Commission for discussion. He asked Commissioners to indicate first how they feel generally about this application.

Vice Chair Zaffaroni said that as far as Residential Areas 11 and 12 are concerned, it's important to clarify General Plan language about the barren ridge and open space. Discussing the "barren ridge leading up to Windy Hill from the east," she quoted the last sentence from General Plan Section 2129: "A major portion of this ridge is owned by the Midpeninsula Regional Open Space District." If MROSD owns a major portion, she asked, who owns the rest? She also referred to Section 2126, which says (re Residential Area 11), "It is desirable that the natural character of the open ridge leading up to the Windy Hill Open Space Preserve . . ." a statement that she said implies shared ownership. Depending on when this was written, she said that the "barren ridge" might now be tree-covered, but ownership other than MROSD's is clear.

Mr. Vlasic said that Windy Hill and the Corte Madera property went to open space before the larger parcel that was eventually subdivided so that Melchor could retain part of the property with the rest going to the Peninsula Open Space Trust (POST) and ultimately to MROSD with the provision for a 20-acre home site, which is now the Kabcenell's home. Thus, he said, the provisions relative to the barren ridge came after Windy Hill was under control. He then put out several maps for the Planning Commission and the public to view. On one of them, he pointed out the existing home site, the reservoir, the area proposed for the cabaña/entertainment center, and an opening in the trees along the road to the site of the former Bozzo Ranch. On another, he indicated the existing house, the proposed sites for the cabaña/entertainment center, art studio and guest house, Spring Ridge (the barren ridge), the trail, the location of the Melchor property (and the portion that eventually went to the MROSD, and was added to the old Corte Madera Kelley property and then eventually extended with the McKinney property that was part of the POST deal). Mr. Vlasic also showed a map reflecting the Historic Element of the General Plan, identifying Spring Ridge (7), the new Melchor house (32), the upper Bozzo Ranch area, etc. He noted that Spring Ridge basically follows the trail on the MROSD property.

Vice Chair Zaffaroni said that with respect to the Meadow Preserve, she believes it should remain what it is or be renamed. She noted that a meadow is "land that is covered or mostly covered with grass, especially moist, low-lying, usually level grassland." In terms of hay, it's "herbage and especially grass mowed and cured for fodder." In addition to haying, she said the fact that the space should be kept "largely" open leaves leeway for having some food crops and other ag uses on a small scale. But Vice Chair Zaffaroni stated that more intense uses, which would change the nature of the Meadow Preserve, would take it to the realm of a policy decision that the Town Council should make. She said it's not a decision that the Planning Commission should make in the context of approving this particular application.

In terms of the development proposed for the upper portion of the property, Vice Chair Zaffaroni said she wished the information about Residential Areas 11 and 12 as well as information about Residential Open-Space Preserves had been available earlier in the process. While the process has been slow, she pointed out that she feels the Planning Commission has done its best to move it along as expeditiously as possible, but the application lacked specifics in terms of locations and/or time periods for development. Thus, it's been only over the past month or so that the Planning Commission has had the opportunity to see the full cumulative impacts and vision for this application.

Vice Chair Zaffaroni said she was surprised to see that existing development on the Neely/Myers property – the main residence, the tennis court and garage – is already in the Residential Open Space Overlay. Because the General Plan requires avoiding development in that area to the maximum extent possible, she said that more of an effort should be made to move development out of that area rather than add to the development that's already there. She expressed particular concerns about the cabaña/entertainment center. She said that she has no problem with the structures proposed for the lower elevations.

Addressing the accessory buildings above the meadow, Commissioner Gilbert said that she continues to feel that given the relatively modest amount of development proposed, distributing the buildings (rather than clustering them) seems to be a way to minimize the impact, both visually and in terms of land disturbance.

Further, Commissioner Gilbert said she appreciates how the applicants have tweaked their plans in response to issues that the Planning Commission has raised, but she still believes that what's proposed for the Meadow

Preserve goes beyond keeping a substantial portion of it as a meadow. While she said she isn't necessarily opposed to agricultural uses per se, she feels the way they're proposed would require amending the General Plan. The most problematic issues to her way of thinking are the proposed vineyards and the fencing around it.

Commissioner McIntosh noted that the original plans were too vague to satisfy the Planning Commission, and acknowledged that the evolution from that point – while frustrating the applicants, staff and the Planning Commission alike – has produced a more thorough, specific proposal that's been vetted by ASCC and examined carefully by staff. He said he was grateful for Commissioner Von Feldt bringing attention to the wildlife corridor issue in the meadow and the changes it prompted. He said he likes agriculture because it's attractive, interesting, historic; agriculture is orchards and vineyards; agriculture is a preserve. He also likes the idea of mixed agricultural use and doesn't think fences detract from the aesthetics.

What he would fear, Commissioner McIntosh said, is a proposal for a residential development in the meadow. He also commended the applicants for being terrific stewards of this land, in the same way as the Whites, and supports them for that reason as well. Commissioner McIntosh also noted that the Town has approved three barns along Portola Road over the last 20 years – for the Whites, for the Jeliches and at Town Center. He also credited staff's work on this proposal, noting that time after time, Mr. Vlasic has been very thorough and right on point, addressing every question completely.

Commissioner Von Feldt said that this proposal is particularly difficult because it requires more interpretation and judgment than most of the applications the Planning Commission considers. In the upper reaches, she empathizes with some of the other Commissioners' sentiments, but in reading the General Plan, she said she sees other statements that could support minimal development there. In her visits to the property, she said she found the choice of sites for those structures thoughtful, and it would be difficult to find locations that would be more suitable. In terms of the meadow, she said she could be supportive of the barn proposed there, and that she was swayed by some of the arguments favoring historic agricultural uses.

Commissioner Von Feldt said that while haying and orchards fit that criterion, vineyards would change the character considerably. Commissioner Von Feldt said she's struggling over one finding – “The proposed use will be in harmony with the general purpose and intent of this Title in the General Plan” – because as she put it, she doesn't know whether making that finding would set a precedent for more development or, considering the limited-scale proposed, in fact preserve and protect it against additional development. She said that maybe having an easement would provide some assurance.

Chair McKitterick said that the western hillsides are indeed a very important issue for Portola Valley, arguably the most important for many people, and one can't talk about the western hillsides without also talking about the valley. He said that as he understands it, the development of The Sequoias on the parcel adjacent to the Neely/Myers property was a major catalyst in getting the Town to incorporate and preserve the western hillsides via a lengthy, restrictive Zoning Ordinance. Chair McKitterick said that Mr. Lane in fact came to one of the first meetings on the Neely/Myers proposal, and may have even written a letter. He recalled Mr. Lane encouraging the Planning Commission to proceed cautiously and with great deliberation. He also looked at some of the language in the Zoning Ordinance that Mr. Lane had helped craft, and said that he doesn't find that language prohibitive in terms of development.

Chair McKitterick said, too, that he knows the kind of wording he himself would use if he wanted to prohibit development, but he has no way of knowing why the language chosen was restrictive rather than preclusive. In any event, the language leaves room for interpretation, he continued, and the discretion that the Planning Commission has. For instance, he said, the term “largely open” could be construed to mean anything from no trees and just grassland to maybe a building here or there and some plantings. In his view as a citizen who serves on the Planning Commission, Chair McKitterick said, the application presented is largely consistent with a reasonable interpretation of the General Plan. Whether that's not the interpretation the Town *should* have is another issue. He said that perhaps the Town could pursue a “square foot to square foot” development preclusion, but he said that he isn't inclined to reject the application just because it lacks that. He said that he does not intend for any decision the Planning Commission reaches on this application to have a precedential effect, either on the Neely/Myers property or any other property.

Vice Chair Zaffaroni asked how other Commissioners felt about reaching a decision tonight. Commissioner Von Feldt said that as she reads it, two Commissioners are comfortable with the proposal as is, two are not, and she is in the middle. She said that she'd like to try to work to a solution tonight, though.

Commissioner Gilbert said that with modification for what's in the meadow – removing the vineyard and the fence around it – and some changing of the wording in the CUP, she could agree to move forward. She said that she can accept the barn location as proposed, the orchard around the perimeter and the vegetable area up against the barn. However, she wants to see the visual corridor along Portola Road opened up more, so in addition to the removal of the redwoods now provided for in the proposed CUP, she'd also want to remove enough of the planted oaks at the property boundary shared with MROSD so it no longer appears to be a line of trees. Further, she'd want either 1) a thinning of the oak trees along Portola Road, or 2) a tree management plan to be developed to the satisfaction of the ASCC.

Commissioner Von Feldt pointed out that there are posts, without fencing, in the middle of the meadow.

With respect to the vineyard, Commissioner McIntosh said that there are already three or four other vineyards on the property already, and the Planning Commission hasn't denied a vineyard anywhere in Town. Commissioner Gilbert said that she's not opposed to discussing broader agricultural uses elsewhere on the property, but believes that uses beyond the historic haying in the meadow would require an amendment to the General Plan. She said that she doesn't object to the orchards in the proposal now, tucked up against the back of the property where they don't have much of a visual impact. The vineyard proposed, in contrast, is a four-acre section in the middle of the meadow.

Commissioner Von Feldt said that she could support what Commissioner Gilbert laid out.

Commissioner Gilbert said that she also has numerous other comments related to the CEQA documents, all in line with the changes she has mentioned. Mr. Vlasic said that rather than trying to do substantial wordsmithing tonight, if the Planning Commission could reach consensus on a position regarding the proposal, it could then direct staff, working with Commissioner Gilbert, to bring everything back in a final-action form.

Project architect Carter Warr (Principal, CJW Architecture) said that from the applicants' point of view, some of the changes mentioned are substantial and would warrant discussion with the applicants. Dr. Neely, noting that he doesn't understand why the orchard seems acceptable but not the vineyard, said that eliminating the vineyard would be a real problem because it would eliminate the economic use of the meadow. He said that they placed the vineyard centrally because vines, at six to seven feet tall, have a lower profile than fruit trees. That area is 25 to 30 feet below the driveway level, he added.

Commissioner Gilbert responded that it's the location, with minimal visual impact, that makes the orchard acceptable to her. If it were located where the vineyard is proposed rather than around the perimeter, she would have the same problem with the orchard. She said that shrinking the meadow from the outsides is one thing, but to take half of it and change it to something that isn't grassland goes too far.

Dr. Neely pointed out that one-third of the Meadow Preserve is controlled by MROSD, and he's essentially ceded another third, moving all of the agriculture to the northern third of the space. Now, they're being asked to eliminate essentially 60% to 70% of what they've proposed as agriculture. That would result in what he called a "trivial" amount of agriculture up against the trees. The low profile of vineyards and the low location would make the meadow as "largely open" as the orchard on the perimeter. It would be very difficult for them to support a change that would eliminate the vineyard, he said, because doing so would make the project worthless.

Commissioner McIntosh pointed out that in the General Plan, the Meadow Preserve encompasses the entire meadow, not just the part that is on the Neely/Myers property. Vice Chair Zaffaroni countered that the Meadow Preserve is no longer an integrated whole, already bisected by trees and posts.

Mr. Silver asked permission to make a point of order, because the procedure has begun to get messy. He said that people left the meeting after the public hearing had been closed, and then the Planning Commission took the discussion in another direction. He said that he cannot agree with arguments being made on one side that aren't answered.

Chair McKitterick asked the Town Attorney if it would be appropriate to interact with the applicants to get a sense of what they feel most strongly about and where there may be room for compromise. Ms. Sloan said that Chair McKitterick could reopen the public hearing, and it wouldn't matter that a few people left. However, she said the only thing it's appropriate to ask the applicants is whether they would prefer a continuance or a decision.

Chair McKitterick said his preference would be to come to a decision, but only to the best possible decision, because he's concerned about shifting the burden to either the applicants or the public to appeal. He reopened the public hearing and asked Mr. Warr for his thoughts. Procedurally, Mr. Warr replied, they would like the application that has been modified and massaged to be approved as a whole. Furthermore, they would love to have action tonight, he said, but not at the expense of eliminating the vineyard.

Mr. Silver said that he'd like to see more changes in the proposal, and that comparing the barn to other barns on parcels that don't have much land isn't a valid comparison. He said that he knows "largely open" was never intended to mean "largely open except for a few buildings." He said that an easement in the meadow could balance the concerns that have been expressed, and he'd work hard with the applicants to come to closure on locating the vineyard in such a way as to preserve the heart of the meadow.

Ms. McGuire said that she doesn't think either a vineyard or an orchard will look all that wonderful from Westridge, and she doesn't even live there. She believes a meadow should be open, so whatever's proposed to go there leaves a huge question to resolve, she said.

Ms. Murphy said that she considers Commissioner Gilbert's compromise proposal to keep the central area open would result in much less pushback from the general community if more people get involved in the debate over this proposal. She said she understands Dr. Neely's confusion about why orchards are acceptable and vineyards are not, but as she sees it, the location is the difference, not the plantings.

Mr. Warr suggested that perhaps from a procedural standpoint, the Commission might move forward with a vote on the five buildings with the exception of the agricultural plantings.

Chair McKitterick asked Commissioner Von Feldt to weigh in. She said she agreed with Commissioner Gilbert's and Ms. Murphy's points that it isn't the plantings themselves, but that they occupy so much of the space in the Meadow Preserve.

With two Commissioners leaning one way and three the other way in terms of plantings in the Meadow Preserve, Chair McKitterick suggested that the Planning Commission address the other aspects of the proposal. Ms. Sloan agreed that it would be proper to have two separate motions.

Mr. Warr said based on discussion of revisions to the conditions, the applicants would prefer a continuance to be able to evaluate and coordinate comments and work with staff on any changes. Ms. Myers agreed that it would seem best to review these changes more carefully, because by the time this motion is made there will be many language changes, and the previous discussion has underscored the importance of getting the language right.

Commissioner Gilbert said that the current language in Condition 5 says, ". . . the permittee shall develop and implement a plan to the satisfaction of the ASCC to remove the recent redwood and non-native meadow area plantings . . ." To that would be added "thinning the native oaks along there." Dr. Neely and Ms. Myers objected to that addition. She said that last-minute language changes are problematic, and she wouldn't use the word "thin," but rather something such as "arrive at a management plan in collaboration with or in conjunction with or working with the ASCC." Mr. Warr said that the applicants would be uncomfortable being denied an opportunity to present a plan for what would be done to thin the trees or at least have some staff review of what it would mean.

Commissioner McIntosh said that he senses a basic conflict, because the applicants want some screening and the Town wants an open vista from the road.

Vice Chair Zaffaroni said she isn't clear whether the Planning Commission will be able to reach any kind of decision or conclusion if the applicants would prefer more time. Chair McKitterick said that if the applicants want more time to amend the application or the CUP, he would favor a continuance, but if the applicants only want further staff analysis that the Commission doesn't feel it needs, he wouldn't. He said that he believes the

Commission has consensus about the need to thin the trees, so no additional staff input in that regard would make a difference.

Commissioner McIntosh said that the Planning Commission should vote so at least the applicant would be able to appeal now, because the Commissioners aren't likely to change positions on some of the issues. Vice Chair Zaffaroni said that she very much favors reaching a decision tonight, and she also believes that many of the questions come under the aegis of policy and thus belong with the Town Council.

Vice Chair Zaffaroni said that she remembers with the Murdoch stables, the Planning Commission requested thinning of oaks along Alpine Road. Both Alpine Road and Portola Road are scenic corridors, and the idea is to keep the area open.

Mr. Warr said the applicants would support thinning the trees if it would mitigate the presence of a vineyard in the meadow.

Dr. Neely requested clarification from the Town Attorney about the right to appeal if the Planning Commission votes affirmatively for something the applicants consider unacceptable. Ms. Sloan confirmed that they'd have the right to appeal. It would have to be filed within 30 days of the time the applicants receive formal notice of the action from the Town (via certified letter).

Following a discussion among Commissioners about removal of the fence posts in the meadow, Ms. Myers said it was interesting to be hearing, now, the Commission focus on the posts that have been there for many years. She pointed out that the posts do serve a utilitarian purpose in delineating their land from the adjacent property. Dr. Neely pointed out that there are security issues with trespassers.

Chair McKitterick summarized the changes discussed. Mr. Vlasic summarized what would not change (the two orchard fenced areas, the vegetable area and the haying area).

Commissioner Gilbert moved to approve the proposed CUP except for the vineyard and associated fencing in the meadow and with five changes in the conditions of approval: 1) Thin the trees along Portola Road; 2) Thin the line of planted oaks in the meadow on the property's southern boundary, based on collaboration between the permittee and the ASCC; 3) Selective removal of fence posts on the southern property boundary in the meadow; 4) Any project under construction within the time period specified be completed in a timely manner; and 5) The dirt path in the meadow will be left unimproved and used solely for meadow management, maintenance and haying. Commissioner Von Feldt seconded. [*Note: When the Commissioners cast their votes (page 13), the motion is repeated.*]

Commissioner McIntosh moved to amend Commissioner Gilbert's motion to retain the vineyard and associated fencing, approving the proposed CUP with the five changes in the conditions of approval. Seconded by Chair McKitterick, the motion failed 2-3 (Zaffaroni, Von Feldt and Gilbert against).

Vice Chair Zaffaroni said that in terms of the meadow, she could support haying and smaller-scale agricultural uses such as food crops, but to have other more intense uses would be inconsistent with the General Plan and thus require a major policy change to be made by the Town Council. She said that she can support the pool, greenhouse, horse barn, guest house and art studio. However, because buildings should be kept out of the Residential Open Space Preserve to the extent possible and development already exists within that area, she believes the addition of the cabaña/entertainment building (at the highest level) would intensify the cumulative impact, would have significant visual effects (per WASC) and would create light spill that would be difficult to screen out. Further, she said that MROSD has described the project as highly dispersed, and the General Plan and Zoning Ordinance both indicate a preference for clustering. The lower-level buildings are grouped in such a manner, she said.

Commissioner Gilbert enumerated several recommended changes in the Mitigated Negative Declaration:

Checklist Item: Would the project . . .	Change/Comment
<ul style="list-style-type: none"> • . . . have a substantial adverse effect on a scenic vista? Page 7 of 19, Aesthetics, 1(a) 	<ul style="list-style-type: none"> • Change designation to “less than significant impact with mitigation incorporation.” • Thinning oaks would be mitigation for the ag building, the orchard and vegetation – not for the vineyard.
<ul style="list-style-type: none"> • . . . substantially degrade the existing visual character or quality of the site and its surroundings? Page 7 of 19, Aesthetics, 1(c) 	<ul style="list-style-type: none"> • Change designation to “less than significant impact with mitigation incorporation.”
<ul style="list-style-type: none"> • . . . interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede use of native wildlife nursery sites? Page 9 of 19, Biological Resources 4(d) 	<ul style="list-style-type: none"> • Change designation to “less than significant.” • Commissioner Von Feldt said that without the vineyard, the “less than significant” designation would be appropriate (rather than “no impact”).
<ul style="list-style-type: none"> • . . . conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the General Plan . . . adopted for the purpose of avoiding or mitigating an environmental effect? Page 13 of 19, Land Use and Planning 9(b) 	<ul style="list-style-type: none"> • Change designation to “less than significant impact with mitigation incorporation.”
<ul style="list-style-type: none"> • . . . conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system . . . not limited to intersections, streets, highways and freeways . . . ? Page 16 of 19, Transportation/Traffic 15(a) 	<ul style="list-style-type: none"> • No change. • Commissioner Gilbert noted that this seems to address the question of increases in traffic in relation to existing traffic capacity. Mr. Vlasic pointed out that the Public Works Director estimated no significant increase in traffic trips. Ms. Sloan said that the “no impact” designation is appropriate because the question is whether the project would increase hazards, and if the Public Works Director identifies a problem once the driveway is designed, an addendum to this Mitigated Negative Declaration might be in order.

Commissioner Gilbert moved to approve the Mitigated Negative Declaration with the amendments proposed. Seconded by Commissioner Von Feldt, the motion carried 4-0-1 (Zaffaroni abstained).

[*Note: This is the motion made earlier (page 12.)* Commissioner Gilbert moved to approve the proposed CUP except for the vineyard and associated fencing in the meadow and with five changes in the conditions of approval: 1) Thin the trees along Portola Road; 2) Thin the line of planted oaks in the meadow on the property’s southern boundary, based on collaboration between the permittee and the ASCC; 3) Selective removal of fence posts on the southern property boundary in the meadow; 4) Any project under construction within the time period specified be completed in a timely manner; and 5) The dirt path in the meadow will be left unimproved and used solely for meadow management, maintenance and haying. Seconded by Commissioner Von Feldt, the motion carried 4-1 (Zaffaroni against).

NOMINATION OF CHAIR AND VICE CHAIRPERSONS: Commissioners agreed to carry this item over to the next Planning Commission meeting.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

None.

APPROVAL OF MINUTES

Commissioner Von Feldt moved to approve the December 7, 2011 minutes of the Planning Commission meeting, as amended. Seconded by Commissioner McIntosh, the motion carried 5-0

ADJOURNMENT 11:10 p.m.

Nate McKitterick, Chair

Leslie Lambert, Planning Manager