

PLANNING COMMISSION MEETING, TOWN OF PORTOLA VALLEY, NOVEMBER 7, 2012, SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chair Von Feldt called the Planning Commission regular meeting to order at 7:30 p.m. Mr. Padovan called the roll:

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

Absent: Commissioner Denise Gilbert

Staff Present: Tom Vlastic, Town Planner
Sandy Sloan, Town Attorney
Steve Padovan, Interim Planning Manager
Ann Wengert, Town Council Liaison

ORAL COMMUNICATIONS

A woman who did not identify herself but said she is not a resident of Portola Valley suggested that officials consider undertaking "social impact" reports as well as Environmental Impact Reports (EIRs).

Chair Von Feldt announced a change in process for this meeting, with Speaker Cards available.

REGULAR AGENDA

- (1) Public Hearing: Proposed Lot Line Adjustment X6D-213, 20 and 30 Granada Court (Robert and Kimie Nebrig – Kathryn Hall)

Mr. Vlastic said that based on staff review, input from the Town Attorney and a presentation from applicant Robert Nebrig (20 Granada Court), the Planning Commission supported the proposal during its October 17, 2012 meeting. Applicant Kathryn Hall (30 Granada Court) provided background information similar to what Mr. Nebrig told the Planning Commission when the ASCC reviewed the proposal during its October 22, 2012 meeting.

Mr. Vlastic indicated that two key issues from the ASCC discussion don't relate directly to the LLA. One concerned Town fire management regulations vis-à-vis the Site Development Permit Ordinance, and the other involved asking the Nebrigs to reconsider the number of redwood trees planted on the lower portion of their property.

Staff recommended approval of the LLA application, subject to specifications in the November 1, 2012 staff report (page 3):

1. The Planning Commission finding the project categorically exempt as provided for in Section 15305 of CEQA guidelines.
2. Final documents prepared to the satisfaction of the Public Works Director and Town Attorney; approval of the requested LLA would allow these documents (a deed of record of survey and certificate of compliance) recorded for each adjusted parcel.

With no preliminary questions or comments from Commissioners and no speakers coming forward, Chair Von Feldt brought the matter to the Planning Commission for discussion.

Commissioners McIntosh and McKitterick said they were ready to vote on the proposal.

Commissioner McKitterick moved to find the project categorically exempt as provided for in Section 15305 of the CEQA guidelines. Seconded by Vice Chair Zaffaroni, the motion carried 4-0.

Commissioner McKitterick moved to approve the requested LLA pursuant to the staff report dated November 1, 2012. Seconded by Commissioner McIntosh, the motion carried 4-0.

(2) Public Hearing: Site Development Permit X9H-640, 260 Mapache Drive (Scott and Anne Davison)

Per the staff report dated November 1, 2012, Mr. Vlastic, this applicants propose grading approximately 1,200 cubic yards to redevelop their parcel at 260 Mapache Drive, a 2.5-acre site in the Westridge area. The existing house on the property was developed with basically a graded level pad, with some fill pushed toward the south side of the property. The applicants propose:

- Removing and replacing the house
- Doing minor cut and fill to re-grade part of the driveway access to create a more gracious curve coming up to the building site
- Grading, landscaping and building retaining walls to screen access to a lower-level garage
- Placing additional fill on the existing cut pad, part of the applicants' response to input about the originally proposed amount of grading and off-haul from ASCC and the Westridge Architectural Supervising Committee (WASC)

In addition, Mr. Vlastic said the architect (Butler Armsden Architects) is considering scaling back the basement area and would likely reduce the amount of cut associated with the basement as the project moves ahead.

According to Mr. Vlastic, the ASCC is satisfied with the proposal, subject to conditions described in the staff report, and found the applicants appropriately responsive in addressing ASCC and WASC concerns. The ASCC also was satisfied with the applicants' efforts to reduce the height of the retaining walls on the upper portion of the property, feather them and install landscaping to soften the artificial slope of fill created when the original building was created. Re-grading would create a place to plant vegetable gardens that the applicants would share with the adjoining neighbor, who would have stairway access to the area. The ASCC also wanted to ensure that plantings near the entry from Mapache Drive would transition naturally rather than create a garden condition. The architect indicated plans for pasture grasses that would continue the meadow character in that area.

Updating the Planning Commission on other aspects of the site development review, Mr. Vlastic reported:

- The Town Geologist expressed no additional concerns with proposed grading changes since the October 17, 2012 meeting.
- The Public Works Director added only one more comment since that meeting, advising the applicants to exercise caution in grading close to the property line.
- The San Mateo County Health Officer hasn't signed off on the plan yet, although the applicants believe the data developed and provided would satisfy any concerns without any material changes in terms of grading plans. Mr. Vlastic pointed out that neither the proposed driveway nor hardscape improvements conflict with the septic drain field area on the front portion of the property.
- The Fire Marshal's only questions in the initial review seemed to concern the location for a fire truck turnaround, potential conflicts with off-street parking requirements and fire hydrant access within 500 feet of the home. Mr. Vlastic said the turnaround in the plans appears to meet the standards of the Woodside Fire Protection District, and off-street parking – situated either near the existing garage area or on an existing parking pad that would be retained – wouldn't conflict with the turnaround. He also noted that the fire hydrant along a pathway is about 420 feet from the building site.

If any issues were to arise from the Health Officer and/or Fire Marshal that would materially affect the grading now proposed, Mr. Vlastic said the application would come back to the Planning Commission.

In response to Vice Chair Zaffaroni's question regarding the Town Geologist's concern about fill placement over the septic leachfield, Mr. Vlastic confirmed that the Health Officer's report would address this issue if he identifies a problem. He added that in the past, the issue hasn't presented constraints on other projects, although to some extent it depends on the composition of the leachfield and the circumstances of the fill placement.

In response to Commissioner McKitterick, Mr. Vlastic said the proposal went to the Trails and Paths Committee for review because part of the Westridge Trail lies within the bridle path easement on the site. Additionally, he said that when projects involve trails, the Public Works Director prohibits parking and requires trail protection during construction and repairs of any damage caused.

Chair Von Feldt invited the applicants to address the Commission. Lewis Butler, President of Butler Armsden Architects, indicated that he and Jeff Lea, Chairman of Lea & Braze Engineering, Inc. were both available to answer any questions. Following up on Mr. Vlastic's earlier comment, Mr. Butler confirmed that the basement area has been reduced by 400 square feet since the plans that were included with the staff report were submitted. This change reduces the cut by about 150 cubic yards.

With no comments from the public, Chair Von Feldt brought the matter back to the Commissioners.

Vice Chair Zaffaroni said that because the General Plan discourages excessive grading and grading that alters natural contours, it's always important to understand the objectives of grading proposals that come before the Planning Commission. She said she does not have a problem with this proposal for two reasons: 1) the fill would basically be distributed not on native terrain but on what was part of the original building pad, without increasing building height beyond limits established by the Zoning Ordinance and 2) much of the cut would involve installation of an improved, lower-profile driveway.

Commissioner McKitterick cited three reasons for supporting the application: 1) the site wasn't pristine to begin with; it had been disturbed with prior construction, 2) the cut-and-fill work is minimal and 3) the project includes other aspects he favors, including the fact that it would be considerably lower in height than it could have been and that improvements would bring the site closer to its native condition.

Chair Von Feldt said she concurred, noting that the rationale the applicants have laid out supports the amount of grading proposed.

Commissioner McIntosh said it's an excellent proposal. He commended the applicants' solution for this site and said he appreciates their approach and responsiveness to all the comments.

Commissioner McKitterick moved to find the project categorically exempt pursuant to Section 15303(a) of the CEQA guidelines. Seconded by Vice Chair Zaffaroni, the motion carried 4-0.

Commissioner McKitterick moved to approve the site development permit application as shown on the plans listed in the staff report dated November 1, 2012, subject to conditions a. through f. Seconded by Vice Chair Zaffaroni, the motion carried 4-0.

(3) Public Hearing: Proposed amendment to Blue Oaks PUD X7D-137, Lots 23-26, 3 and 5 Buck Meadow Drive, and Lot Line Adjustment X6D-214 (Town of Portola Valley)

Mr. Vlastic said that after the Planning Commission's preliminary review of this item on October 3, 2012, the ASCC conducted reviews on October 8 and October 22, 2012. The latter review included a site meeting. During the course of considering the proposed amendments, he said, the Blue Oaks Homeowners Association (HOA) assembled a thoughtful single-lot proposal, identified as Alternative 2. This alternative would preserve Lot A (a combination of Lots 25 and 26 at 5 Buck Meadow Drive) as open space, with Lot B (a combination of Lots 23 and 24 at 3 Buck Meadow Drive) potentially developed within provisions set forth in the HOA documents dated October 19, 2012 – "Single Lot Alternative Design" and "Single-Lot Configuration Notes." He said the HOA presented this alternative in the hope that it could control both Lots A and B.

Mr. Vlastic said the ASCC determined that either Alternative 1 (the two-lot proposal presented at the Planning Commission's preliminary review) or the HOA's Alternative 2, with some possible adjustments to the building envelope, would be acceptable. Accordingly, either approach that would generate the funds the Town needs to accomplish its Housing Element goals would be appropriate, he said. If the Town were to reach a purchase agreement with the HOA for Lot A only in Alternative 2, leaving the Town to market Lot B, he added, the ASCC would likely adjust the Lot B layout somewhat so that there would only be a 40 foot setback from adjacent Lot 22. Vlastic added that from a marketing standpoint, it might be better to have the setback at 40 feet. The real estate professionals with whom the Town is working concur with the ASCC's position,

He then referred to communications that were shared with Planning Commissioners earlier in the day. Dated November 7, 2012, one came via email from Bud Eisberg, Wyndham Drive, on behalf of Keep PV Rural. Mr. Eisberg raised some CEQA questions that Mr. Vlastic said the Town Attorney also would address to some extent, and questions related to environmental review of the specific changes proposed for the lots in Blue Oaks.

Reviewing the background shared with the ASCC for its discussions, Mr. Vlastic posted the Town's General Plan Map and the PUD Master Plan for Blue Oaks. Zoning Ordinance Section 18.72.130 indicates findings that would be required to grant a conditional use permit (CUP), he said, including that the proposed use would be "in harmony with the general purpose and intent of this title and the General Plan."

Pointing out Blue Oaks' location along Los Trancos Road; Mr. Vlastic indicated that the subdivision originally comprised two properties, Upper Portola Glen Estates and part of the Webb Ranch property. The General Plan in effect at the time identified buildable area, steep slopes, geological limitations, fault setback requirements and potential visual relationships. He also pointed out areas extending over most of Coal Mine Ridge and parts of Portola Valley Ranch and Blue Oaks that the General Plan identified as open space preserve, due to steep and unstable slopes on the property and along Los Trancos Road,

Continuing with the Blue Oaks background story, Mr. Vlastic said that the Town rejected outright, for geologic reasons, the initial developer's first proposal – for a development on Coal Mine Ridge. The second proposal put most of the development within the area that the General Plan identified as acceptable, plus some extension of development on the base of the slopes of Coal Mine Ridge and some to the south. At the time, the below market-rate (BMR) housing units would have been located on the east side of Los Trancos Road. The EIR review of the proposal raised questions about General Plan compliance for the area at the south end of the project and at the Los Trancos Road due to a greenway designation on the General Plan.

The next revised project concentrated the development within the buildable area identified by the General Plan, Mr. Vlastic said, noting that some adjustment eventually was allowed on the west side. Three primary factors went into the rationale behind the adjustment: 1) it was determined that the geology was acceptable, 2) the land was low on the property in an area where the visual impact wouldn't be significant, and 3) it could be done within the fundamental concept of the General Plan.

Mr. Vlastic pointed out that the BMR site was basically within the center of that developable area – with no geological, slope or fault trace constraints, with access due to improvements made to Buck Meadow Drive from Los Trancos Road, and with no significant viewshed issues. The process the Town went through at the time, in terms of eliminating constraints and support for the buildable area, made it clear that due to geology, slopes and access, this central portion – the spine – was appropriate for development and for clustering. The potential density of the development was even reduced to accommodate fitting the lots that were available. Ultimately, the four BMR lots and their tentative building envelopes were established via the PUD approval.

The EIR for the original Blue Oaks Subdivision PUD also evaluated biological limitations on the site, Mr. Vlastic said. Responding to current contentions that call for further evaluation of the blue oak forest, he pointed out that the originally approved BMR sites clearly fell within an area identified as woodlands, but the General Plan envisioned development there. The EIR evaluation concluded that despite the forest, careful removal of trees within Town guidelines and detailed conditions in the PUD would have a less-than-significant impact. In contrast to the proposals represented by either Alternative 1 or Alternative 2, he said, the impact on the trees would have been greater with the development of four lots with eight BMR units, their associated driveways and parking area, plus an allowance for a swimming pool.

In crafting both Alternatives 1 and 2 as well as in looking at the options, Mr. Vlastic said, the area available for development is substantially less than the building envelopes indicated in the existing Blue Oaks PUD. As noted in the September 27, 2012 staff report, the two-lot proposal would have reduced the building envelope area by 36% – from about 55,000 square feet to 35,000 – 36%. The building envelopes on Lot B, he added, are virtually the same in both Alternative 1 (18,639 square feet) and Alternative 2 (18,270 square feet).

Recapping the salient points, Mr. Vlastic said that substantially less area than in the current PUD would be available for development with either alternative currently proposed, thus significantly reducing the associated potential impact on trees. Furthermore, permitted floor area and impervious surface area would be reduced by 20-25%, and thanks to private space and Buck Meadow Preserve – a spine of internal open space that is significant to the properties around it – those lots would have more open space. In other words, the effects on the oak forest and other issues that the original EIR found less-than-significant would be even less significant moving forward with either Alternative 1 or Alternative 2 due to the smaller building envelopes, reductions in square footage of development and preservation of more open space.

Mr. Vlastic noted that another communication came today from Jerry Secret, Willowbrook Drive, who offered some alternative ways to deal with the affordable-housing issue.

Indicating that the Planning Commission has two viable alternatives to consider, Mr. Vlastic said that in addition to the Recommendations for Action outlined in the November 1, 2012 staff report, staff also recommends including language that would accommodate an adjustment enabling the ASCC to revise Lot B's building envelope and height factors as needed to satisfy marketing objectives if the HOA doesn't acquire both Lots A and B.

Chair Von Feldt invited Ms. Sloan to address Mr. Eisberg's letter of November 7, 2012.

Ms. Sloan said the letter makes many points and levels several criticisms of the Town process.

- The first accuses the Town of "piecemealing" under CEQA.

Ms. Sloan said there is no piecemealing. If the Town sells the Blue Oaks lots, there is no guarantee that anything would be built at 900 Portola Road. There is no way to conduct a CEQA process on the 900 Portola Road property because there is no plan, no design, nothing to analyze. The Town has not even acquired the land. If the property is acquired, a full EIR process would likely ensue, but at least a thorough CEQA analysis that explores various alternatives of what could be developed there. As Ms. Sloan explained, CEQA doesn't allow for speculative analysis, so there would be no way of undertaking it at this time.

- The second calls for a fuller environmental review regarding the LLA than just the building envelope adjustments. Ms. Sloan said Mr. Vlastic provided very useful background and an explanation about the EIR and General Plan findings when the Blue Oaks PD was approved, but, she added, the main point in regard to tonight's hearing is that the exemption from CEQA clearly applies for a minor lot-line adjustment and for a minor land-use alteration. As Mr. Vlastic explained, she continued, the proposal reduces intensity of use, which means that the number of lots is being reduced as well as the number of units, but also a reduction in building envelopes and the allowable square footage.
- The third criticizes the Town for not following its own ordinances. Ms. Sloan said the inclusionary lot requirement was directed at a developer, and the developer was required to set aside 15% of the lots for affordable housing. That requirement has been met, she said. When the Blue Oaks developer chose not to develop the lots, they transferred to the Town. The Town has the discretion to build the affordable housing on this or another site. The Town always has that discretion, she said, and the Municipal Code doesn't say that affordable housing must be built on the site where the developer built the market-rate lots. Even if one were to interpret the Subdivision Code very, very strictly, Ms. Sloan said, the way Mr. Eisberg did in his letter, a municipality is not technically required to comply with its own ordinances. (Nor are cities and counties required to comply with one another's ordinances unless mandated otherwise by state law, she indicated.)

Probably most important, she continued, the General Plan's Housing Element specifically calls for the Blue Oaks lots to be developed at Blue Oaks or sold so the money can be used elsewhere – elsewhere meaning another lot or perhaps an in-lieu fund. The General Plan supersedes the Zoning Ordinances in the planning hierarchy. Any actions must comply first and foremost with the General Plan, because it takes precedence over any ordinances.

- The letter criticizes the Town for hasty action. The Housing Element's adoption went through several noticed public hearings, at both the Planning Commission and Town Council levels, Ms. Sloan said, and so there was full public input and opportunity for public input on the Housing Element, including the particular segment now being questioned.

Ms. Sloan referred to a letter from Ms. Pelosi about Town correspondence with affordable housing developers for construction of BMR housing at 900 Portola Road. Ms. Sloan said those might have been letters of interest that the Town Manager received from developers. He replied to those letters, indicating the expressions of interest were premature in that the Town had no plans at this time.

Chair Von Feldt invited Commissioners questions and comments.

Vice Chair Zaffaroni, noting that neither the LLA nor the PUD amendments would take effect until both the lots are sold, asked how the timing would work if a buyer comes along for one lot and the other sits there for six months or so. Ms. Sloan said the Town has no intention of sell these lots unless it can sell both. If an offer came in on one lot and not the other, the Town Council would have to discuss it, but probably would choose not to accept the offer. She said the Planning Commission is being asked to approve both alternatives, but neither would take effect unless both Lots A and B are sold. The documents wouldn't be finalized or recorded until the lots are sold. She likened it to a developer obtaining permission to build a house and then deciding not to do so.

Mr. Vlasic said it's conceivable to get an offer for both lots independently of one another, and the sale could move ahead simultaneously.

Vice Chair Zaffaroni followed up on the CEQA issue. She asked whether there are any changed circumstances or new information with respect to potentially significant effects have come forth since the original EIR – such as identification of a previously unrecorded fault line, endangered species or critical habitat. Ms. Sloan said no, and that she and Mr. Vlasic discussed it. Mr. Vlasic said the packet for the October 3, 2012 Planning Commission meeting included a letter from the Town Geologist indicating that if a buyer pursues development on the property, he would require nothing more than identification of site-specific conditions associated with foundation design.

Commissioner McKitterick said that as he recalled it, discussion about the Blue Oaks lots when the Planning Commission was working on Housing Element revisions four years ago addressed the difficulties the Town was facing in getting those lots pursuant to the original concept of eight units on four lots. He said Commissioners talked about how selling the lots could enable the Town to either purchase an affordable housing site elsewhere in Town or – if the state were to allow it – purchase affordable housing outside the Town, or put the money into an affordable-housing fund. At the time of those discussions, Commissioner McKitterick said, a lot of negotiations were going on between different communities and the state about how the communities might meet their requirements.

Ms. Sloan said that other communities, even within San Mateo County, continue to explore the other options Commissioner McKitterick referenced.

Mr. Vlasic said that the Housing Element, as certified by the state, currently provides for the first circumstances Commissioner McKitterick described – either eight units on four Blue Oaks lots or selling the lots and purchasing property for affordable housing elsewhere in Town. If the Town wants to consider other options, he said the options would have to be explored in the context of the complete Housing Element, which probably would entail revising it and re-submitting it to the state for certification.

Commissioner McKitterick asked for confirmation that tonight's action has nothing to do with the use of any proceeds from the sale of the Blue Oaks lots or where it decides to go for affordable housing. Ms. Sloan said he is correct – this is just a LLA and PUD amendments regarding the building envelopes. If the Town were to purchase the 900 Portola Road property and wanted to build affordable housing there, she said it would absolutely come before the Planning Commission in noticed public hearings before going to the Town Council for more noticed public hearings. Mr. Vlastic also pointed out that it would come to the Planning Commission as well because zoning also would be an issue.

Chair Von Feldt asked whether some of the PUD descriptions would change depending on which alternative came into play. Mr. Vlastic said if Alternative 1 proceeded and the HOA acquired both properties, the adjustments to the PUD would be made per the HOA's request in its supplemental statement. If the HOA cannot proceed with Lot B, the Town would have to deal with it, and probably would make adjustments to the building envelope that the real estate professionals advised, basically moving it up higher on the hill.

If Lot A became open space, Chair Von Feldt asked how it would be designated – the Buck Meadow Open Space? Ms. Sloan said that's not known yet.

Chair Von Feldt opened the public hearing.

Patty Murray, Redberry Ridge, representing the Blue Oaks HOA, said that as Mr. Vlastic indicated, the HOA is working with the Town, pursuing negotiations to buy the land and devote it to open space, and exploring options for the kind of open space it would be. The HOA would prefer donating to the Town for public open space, she said, but it's possible it would be kept private. Ms. Murray emphasized that the HOA's desire is to move forward and obtain the land, but also wants to put in the record an objection to the two-lot option outlined in Alternative 1.

Nancy Bovee, Vista Verde Way, said the thought of how money influences decisions gives her the creeps, and reminded everyone that the rationale behind the requirement for affordable housing is to provide housing, not to raise money for other projects. She said she's in the "why not in my backyard?" group, as opposed to the "not in my backyard" group, and wants to see a socioeconomic mix in the area. When the Blue Oaks Subdivision was initially proposed, she said she was afraid it would be a "homogenous enclave," but provisions for affordable housing there ameliorated her fear. Ms. Bovee also raised possibilities other than individual lots for affordable housing. Most of the homes in Blue Oaks, she said, look as if they could accommodate three or four mid-size family units, and carefully designed duplexes or quad-type units would fit right in without requiring as many driveways, etc. as individual units. In any event, she concluded, she still wants affordable housing in Blue Oaks.

Jon Silver, Portola Road, noting that the Town adopted its first state-certified Housing Element (in 1991) during his last term in office in Portola Valley, said he's confident that staff has given careful attention to this sensitive issue and tried hard to get the Blue Oaks BMR lots developed – but it's just not happening. He said he wasn't aware of the full range of obstacles the Town faced with the affordable-housing issue until former Mayor and Councilmember Steve Toben reviewed them at a community meeting on July 11, 2012. Mr. Silver said he appreciates the Town's rural character, but nothing specified that the affordable housing required eight separate units. He also noted that although the inclusionary lots were required in the Blue Oaks Subdivision, the Town had the option, if necessary, to sell or swap them for affordable housing elsewhere. He said it makes sense for the Planning Commission to approve this item on the basis of what Mr. Vlastic outlined.

Mr. Eisberg said he was speaking on behalf of Keep PV Rural, which submitted the letter that Mr. Vlastic and Ms Sloan discussed. He claimed that a good, logical argument relates the LLA and PUD amendments for Blue Oaks to the purchase of 900 Portola Road and so it should be viewed as one project. Plenty of information connects the two, he said, and we can't "just cross over that fact." He also said he appreciated Ms. Sloan's and Mr. Vlastic's comments addressing points made in the letter, but noted that even the staff report pointed out that as many as 60 blue oak trees might be affected by development on the lots the Town now owns. Mr. Eisberg also said that the Housing Element is being used to justify moving the BMR lots out of Blue Oaks, but he's seen no indication that other provisions in the Housing Element have been addressed. He said an ad hoc committee was supposed to be formed to investigate possible sites, and the Town was supposed to contact at least three developers.

Mr. Eisberg made another point relating to Commissioner McKitterick's earlier comments about alternative options for affordable housing outside Portola Valley. He said he read about the transfer of BMR units between jurisdictions in an ABAG document, and although he said it's probably not a difficult undertaking, he's seen no indication that the Town has ever investigated it. Speaking to the idea that if the Town sells the Blue Oaks lots for a lot of money, more than \$2 million, he asked whether there should be concern that the money is used efficiently for affordable housing.

In response to a woman in the audience who did not identify herself, Chair Von Feldt confirmed that two Blue Oaks lots (3 Buck Meadow Drive and 5 Buck Meadow Drive) are currently on the market.

Mike Deggelman said he's lived on Wyndham Drive for 25 years, raised four children there, and served on the Parks and Recreation Committee for more than 10 years. He complimented and thanked Planning Commissioners for all the time they put in and credited them for their efforts to ensure that the Town keeps its rural character. He said that the more he learns about it, the more confusing the process involving Blue Oaks and BMR housing becomes. He said Mr. Vlasic did a good job of going through the situation with the Blue Oaks lots, but if they are in an area that's buildable, stable and has suitable geology, why – as Mr. Silver said – is it just not happening?. "What didn't happen?" Mr. Deggelman asked, adding that he's neither seen nor heard anything suggesting that these projects were put out to bid or given to low-income BMR housing developers to say they could do it. He also said that the lack of transparency through this process has been difficult, and addressed himself to Commissioner McKitterick's question about plans for the money the Town would receive from selling the Blue Oaks lots. Mr. Deggelman said that if no decision has been made about what would be done with the money, and if the Town already has a contract with Geoff and Colleen Tate to purchase the property at 900 Portola Road, he doesn't know how both of those things can be true. In terms of hastiness or openness about the process, he concluded, there's a lot left for discussion.

Chair Von Feldt said that she's making note of all the questions, and some answers would be forthcoming once the public comment part of the meeting concludes.

Ray Williams, Wyndham Drive, said he's been a Portola Valley resident since 1972. He said he concurred with Mr. Deggelman about the lack of transparency. He said what little the "man on the street" knows leads them to see a cause-effect relationship between selling the Blue Oaks lots and buying 900 Portola Road. That constitutes a plan at some level, he stated, so to say there's no plan seems not quite honest and is very disappointing.

Mr. Silver pointed out that even if the purchase price and mortgage payments are reduced for affordable housing, there's a state law mandating that all HOA members pay the same dues. He considers it counterproductive to affordable-housing efforts. Mr. Silver also said he agreed with Ms. Bovee that it would have been wonderful to see these units in Blue Oaks 10 years ago – for teachers, firefighters, police officers, single mothers, etc. It's a shame they aren't already built, he said, but it's not realistic. Mr. Silver also said he sympathized with Mr. Williams, that there are links between the Blue Oaks matter and the 900 Portola Road transaction, but as Ms. Sloan said, in terms of plan for 900 Portola Road, there's nothing to look at in a legal or meaningful planning way, so the requisite connection under CEQA does not exist. He also said that although it may seem otherwise, Town officials are not trying to hide things, so any apparent lack of transparency is certainly unintentional.

Anne Cappella, Vaquero Way, Redwood City, said she and her husband are potential buyers who have spent several days looking at the lots and considering the possibilities, but putting in an offer is too risky given all the uncertainties. Tying up money without even knowing whether the property would be in the HOA is one factor. She said the benefits of Alternative 2 include providing more open space and retaining more trees, but the setback requirements would put the house closer to the road and create problems with locating the driveway. She said a shallower setback would make a better approach possible, with the driveway off to the side not in the meadow. She said it would be beneficial to have flexibility in the building envelope and the opportunity to work with HOA to figure out the possibilities.

Carol Wonderly, Portola Road, asked where to find information about the per-unit cost of building affordable housing to help determine whether it's even logistically possible to put "x" number of units on a particular property. Noting that it would seem to be a critical point in looking to buy a lot, she said some information must be available inasmuch as the original Blue Oaks developer explored the idea of building BMR units.

Tom Kelley, Franciscan Ridge, said that in his experience, people who feel as if they're on the wrong side of an issue tend to accuse those on the other side of not being transparent. In terms of plans to develop 900 Portola Road, he said he's heard one side saying there's a plan but the Town isn't revealing it. He also said he heard when the Town has a plan, it will come to the Planning Commission for approval. That process "seems pretty transparent to me," Mr. Kelley said, and residents will have an opportunity to have their say if a plan is developed.

Mr. Eisberg said in terms of developers that had turned down invitations to develop BMR housing on the Blue Oaks lots, they've looked hard and have found no paperwork about it. It might exist, he said, but they've not been able to find anything and they are very interested in the process that occurred with the affordable housing developers. As for transparency, he said, Menlo Park went through a process whereby a site selection committee chose sites for affordable housing, and the whole process was done in open public hearings. In contrast, he said, the site selection in Portola Valley was all done without public input, and they've heard repeatedly that the Town desires 10, 12 to 14 units.

Don Jacobson, Farm Road, Hidden Valley, Woodside, said he's concerned about the discussion as to whether there's a relationship between the matter before the Planning Commission and the BMR development at 900 Portola Road. Disavowing it in the context of CEQA requirements notwithstanding, he said the two items are connected. He quoted from the first paragraph in the November 1, 2012 staff report: "The applications are being processed at the direction of the Town Council to assist in implementing the provisions of the Town's state-certified Housing Element. . ." As Mr. Jacobson put it, "this whole thing is based on the idea that they're going to buy Al's Nursery and convert into below market housing . . . and to pretend that's not the case . . . [is] disingenuous." If CEQA requires this, he added, "Let's obey CEQA. Let's not pretend it's not there."

Mr. Silver said there's a subtlety being missed, because as Ms. Sloan said, there is no specific plan for 900 Portola Road. The fact that the Town wants to sell the Blue Oaks lots to obtain funds to provide affordable housing, Mr. Silver said, doesn't trigger a CEQA event. He also pointed out that if the Town acquires 900 Portola Road, and finds a developer to produce a plan that comes before the Town for examination, there would almost certainly be a proposal for a zoning change to accommodate it. The Town would then, in accordance with the General Plan's Land Use Element, Housing Element and all other elements, evaluate the plan. It might well be rejected, he continued. There's no guarantee, and if the Town can't use the proceeds from the Blue Oaks sale for that purpose, it would have to seek another use for those funds that's consistent with Housing Element goals. Meanwhile, he concluded, the time is not right to have this decision under CEQA, and the idea lot lines at Blue Oaks relating to how many units ultimately might or might not be at 900 Portola Road is ridiculous.

An unidentified man in the audience said he's interested in Mr. Silver's opinion, but questioned where he gets the authority to say that the Town will do this or that.

Mr. Williams asked Town officials to err on the side of inclusion and liberal interpretation, seek public input on these matters, and explain openly how it will proceed rather than continue with "the minimalist approach" taken so far. He said this is too big an issue for that approach, and "perception is reality." Town representatives may think they are acting within the law, he said, but the public feels they're not doing the right thing.

Ms. Wonderly suggested changing the vocabulary and discuss the Town's "intention" with 900 Portola Road instead of a "plan." She said also that according to the sales contract for 900 Portola Road, the transaction is contingent on the sale of Blue Oaks, which "brings it full circle." She also recommended considering four BMR units at Blue Oaks and four at 900 Portola Road and leaving more open space for everyone.

Kathie Terhune, Wyndham Drive, said she recollected the first *Almanac* article blindsiding a lot of people with information about the Town being in conversations about purchasing the property at 900 Portola Road. It didn't say it just welcomed input no matter where people stood; it said it welcomed input from anyone who was interested in supporting the project.

Chair Von Feldt closed the public comment period, indicating that no additional public comments could be made unless the Commission decided to reopen it. She turned to Town representatives to addressing questions raised by various speakers.

- First on the list was an explanation of the Town's attempts to build affordable housing in Blue Oak. Ms. Sloan said the Town had conversations with four affordable housing developers. She has no dates at her fingertips, she said, and does not recall much being in writing. The four developers were Bridge Housing, Eden Housing, Palo Alto Housing Corporation and Habitat for Humanity. Bridge and Eden were not interested in a project as small as that envisioned for Blue Oaks. Palo Alto Housing Corporation was interested enough to research the four specific Blue Oaks lots as well as an alternative site within the subdivision, but decided there were too many physical constraints to proceed successfully before anything bubbled up to the Planning Commission. Habitat for Humanity was quite interested in the site, but its model – using volunteer labor primarily on weekends and targeting very low and low-income people – did not mesh well with the Town's vision. As Ms. Sloan explained, the Town Council wanted the housing for moderate-income people and considered weekend construction inconsistent with Portola Valley's Noise Ordinance.

Chair Von Feldt said the reason for the focus on moderate-income housing was because, as indicated in the Housing Element, Portola Valley already meets requirements for very low and low-income housing through second units.

Mr. Vlastic pointed out that the period of discussions with potential developers extended from 2000-2001 through 2004-2005, and options in addition to those Ms. Sloan described were pursued by the HOA.

- The "ad hoc committee" referenced in the Housing Element, Ms. Sloan said, was not really a committee – it consists of Commissioner McIntosh and Councilmember Ann Wengert.
- In terms of transferring affordable-housing funds to other municipalities, Ms. Sloan said that as Commissioner McKitterick pointed out, current state law requires each individual community to address its own housing needs. There are efforts to change that, and an organization in San Mateo County is having some conversations with the California Department of Housing and Community Development (HCD). She also noted that if Portola Valley undertakes a particular plan or design for a particular number of units, it would trigger a long, involved process during which time the state law could change. She noted that some people mentioned Woodside, which had some affordable housing built next to Cañada College in Redwood City, but in that case, she said, Woodside had encouraged that housing to be built and then the land was transferred to Redwood City, which provided sewer and other services to that site.

Ms. Sloan said that if Mr. Eisberg has something from ABAG, she and Mr. Vlastic would be interested in seeing it. Mr. Vlastic said that Associate Planner Karen Kristiansson, in his office, may have a copy of that document. He said they've been trying to work through the San Mateo County entity to encourage a regional or sub-regional effort to meet housing obligations. He indicated some success in reporting on second units, to the extent that the state no longer requires each community to submit extensive data on each second unit but now accepts a County-wide assessment on the stock of those units. However, he added, the idea of transferring to other jurisdictions appears to be a pretty big hurdle.

- Mr. Vlastic responded to Chair Von Feldt asking for clarification on the issue of the Town having to show progress toward its targets in order to update the Housing Element and have it certified. He said the Housing Element enumerated several points, with associated timeframes, that the Town indicated it would attempt to pursue to demonstrate progress. Mr. Eisberg identified some of them, he said. Based on extensive review through to 2005, it was evident that economically developing the blue Oaks lots for affordable housing was not going to happen. Accordingly, other land was identified as an option, and under pressure to meet commitments made in the Housing Element, the Town is pursuing that option.
- Mr. Vlastic said second units comprise an important component of the Town's affordable housing program, but they don't satisfy all the requirements and probably wouldn't even if there were to be a more concerted effort to increase the supply of second units in Town. Interacting with HCD to get reasonable numbers has resulted in being able to progress in a variety of areas, he said, but it's been very difficult to demonstrate that progress in moderate-income BMR units.

- In terms of cost-per-unit of building affordable housing, Ms. Sloan said we don't know that because there have been no conversations with affordable housing developers for several years, and the cost would vary depending on the developer. Of those the Town communicated with, she said Palo Alto Housing Corporation would probably be at the high end in terms of quality and cost with Habitat for Humanity would probably be at the lower end. Commissioner McKitterick said he's built some Habitat for Humanity homes, and they aren't too low-quality. Ms. Sloan said it's a matter outside her area of expertise, so she's relying on the conversations she's had with others.

Commissioner McIntosh interjected a point. He said there was a meeting about a month ago with Pal Alto Housing Corporation regarding 900 Portola Road to see whether it would be interested in reconsidering if the Town should complete its contract to buy the site. There have been no further conversations since.

- As far as the connection between 900 Portola Road and the Blue Oaks matter, Ms. Sloan said Mr. Silver summarized it very well. The Town is under contract with the Tates, and the purchase and sale agreement is a public document. The Town hopes to use the proceeds from the sale of Blue Oaks to purchase that lot as a place that the Town Council would like to consider for affordable housing. When she said earlier that there is no plan, she meant – as Mr. Silver said – there is no plan for a design, for a number of units. Perhaps individual Councilmembers or individual citizens have mentioned ideas about numbers of units from time to time, she acknowledged, but the Town Council has come to no conclusion nor made any statements about a number of units, or any design. Thus, there is nothing to study.

Commissioner McIntosh said that he spoke from his own perspective on that subject. Further, he said he believes it would be desirable to invite as many affordable housing developers as possible to make proposals if they're interested. One of the rubs, he added, is the number of units. If the Town really needs to add only eight units, he said, that's a big question.

- Turning to the issue of transparency and inclusion, Chair Von Feldt asked for elaboration about the number of public meetings and closed sessions relating to BMR housing. Mr. Vlasic said the Planning Commission held several public meetings when the Housing Element was being updated, even before it got to the public hearing process. There may have been only one or two meetings at Town Council level in adopting the Housing Element after it had gone through the Planning Commission process. All of those were noticed meetings and noticed hearings, as is normal in General Plan dealings.

Over the years, he continued, an extensive amount of time has been spent on the part of both the Planning Commission and the Council looking at ways to implement Housing Element provisions. He said the Town was new territory when it first began trying to develop inclusionary housing and other programs to meet state housing requirements. The same was true in many other communities, he said, but perhaps easier in areas of higher-density development where new units could be folded in more readily than in Portola Valley's hilly environment with low-density development.

Recalling many Town Council meetings from that era, Mr. Vlasic said Councilmember Ed Davis, in particular, challenged every number the Planning Department produced. He (Vlasic) added that the Town always has been very transparent in its desire to meet its social responsibility. Whether it's called "social impact evaluation," the Town Council and the Planning Commission always have taken the Housing Element requirements as a serious responsibility and none of its provisions were put in place in any secretive way, he stated. As for the closed sessions, he said they were Town Council sessions related primarily to property negotiations.

Commissioner McKitterick said he understands the frustration he's heard, because before the community meetings or public hearings took place, the Town was in already contract on the 900 Portola Road property. But that was a Town Council decision he said. He also said he remembers the Planning Commission discussions and public hearings about the problems the Town had in getting BMR units on the Blue Oaks lots and the effort not being viable.

Commissioner McIntosh said it's important to understand that the Town itself cannot and will not be the entity that draws up a plan for BMR development. If no affordable-housing developers were to make a proposal on the 900 Portola Road site, there would be no BMR development there. If a proposal surfaced, it would trigger a lengthy series of public processes – zoning amendment, ASCC reviews, Planning Commission reviews and hearings, and then the Town Council.

Like Commissioner McKitterick, Vice Chair Zaffaroni that she understands the community's frustration to a great extent, and noted that the Planning Commission wasn't privy to any more information than the public and she herself had no knowledge of the Town's interest in 900 Portola Road until she read about it in the *Almanac*. She said she assumed the Town Council had reasons for negotiating privately. Commissioner McIntosh was more aware, Vice Chair Zaffaroni said, but that was in his capacity as a volunteer serving with Councilmember Wengert. She also said she believes it's been clarified that there is no project for CEQA review. The Town's well-informed, well-educated and articulate population holds its elected and appointed officials to high standards, she said, which she considers a positive. She appreciated the public comments tonight, because public involvement and input contribute to better decision-making.

Vice Chair Zaffaroni said the remaining question relevant to tonight's action is whether the Town has fully explored the Blue Oaks option. As Commissioner McKitterick pointed out, the Planning Commission discussed the frustration of not finding a developer for BMR units on those lots before deciding that the Town should have the flexibility to look elsewhere – all openly and transparently in publicly noticed meetings. She said that again and again, she has promoted doing whatever possible to develop the lots at Blue Oaks, and asked again tonight: Have we fully exhausted that option? She said that locating the BMR units elsewhere is bound to raise warranted concerns on the part of the public that the Town maintains its normal standards and consideration of aesthetics and adheres to its normal processes. At Blue Oaks, all of that has been done already, as well as an approved EIR. She said perhaps because the economy has changed or other factors, developers that weren't interested several years ago may be interested now.

Referring to Ms. Cappella's comments as a potential buyer of a Blue Oaks parcel, Vice Chair Zaffaroni asked whether the proposal for the Blue Oaks lots is structured in such a way as to facilitate the sale of those lots. The current proposal seems to make it difficult for an individual to buy one of the lots, she said. In response, Ms. Sloan said it's important to realize that the Town Council decided it wanted to sell the lots in this manner. Accordingly, the Council wants the Planning Commission to look at the alternatives. Ms. Sloan said that as offers come in over the next few weeks, there might be some timing adjustments, but that would be up to the Council. In the meantime, the Council is seeking approval of either the two building-envelope proposal (Alternative 1) or the HOA proposal (Alternative 2).

Commissioner McKitterick said the Planning Commission must be mindful of acting consistent with the Housing Element in taking the action tonight. In other words, the decision should help work toward meeting the Town's affordable-housing goal. Vice Chair Zaffaroni replied that she understands his point, but in terms of furthering progress toward that goal, she questions whether the structure being presented is conducive to selling the lots.

Ms. Sloan said that part of the consideration is that, as Mr. Vlasic emphasized, the Town has been working on affordable housing at Blue Oaks for a long time. Even if the non-hillside property the Town wants to buy doesn't wind up being used for BMR housing, she said, the Town would still have the money to pursue it in another way.

Commissioner McKitterick said that if someone came in tomorrow and made an offer, there would have to be several contingencies. Among them, both lots would have to sell. He also said that to his understanding, more than one party has expressed interest, and he believes the lots were priced to sell.

In response to Chair Von Feldt's asking about the 40- versus 80-foot setbacks in Alternatives 1 and 2, respectively, Commissioner McKitterick said he totally agreed with Mr. Vlasic. If the HOA doesn't move forward to buy the entire package but have the wherewithal to buy Lot A for open space, the configuration of the building envelope on Lot B should be such that it doesn't jeopardize the sale of that property.

Chair Von Feldt asked whether Commissioners were ready to make comments.

Commissioner McIntosh said that with the addition of Alternative 2, he strongly supports Mr. Vlasic's recommendation to go forward because it's very important to do it now. The contract to purchase 900 Portola Road has a time limit, and the ability to sell the Blue Oaks lots would be hindered by a delay.

Commissioner McKitterick reiterated the fact that he shares the frustration he's heard. While he does not believe perception is reality, he said as a volunteer public official, he's always considered it incumbent in his conduct to avoid even the appearance of impropriety, bias, wrongdoing, underhandedness or sneakiness. He is disappointed, he said, that the Town has failed to avoid such appearances in this instance, and he considers some of the communications to have been unhelpful. Still, he said, he continues to have a lot of faith in the Town's processes, and faith that the Planning Commission would vote without bias on this issue and anything that happens at any other site regarding affordable housing.

The Planning Commission has discussed how to move forward with its affordable-housing commitment on previous occasions, Commissioner McKitterick continued, and gave the Town Council two options in the updated Housing Element four years ago. He considered both options reasonable, one to develop the Blue Oaks lots and the other to sell them, and is not revisiting that decision. If the elected officials on the Town Council have decided that developing the Blue Oaks lots is not feasible, that decision doesn't involve the Planning Commission. It's the Planning Commission's decision to meet the goals of the Housing Element and comply with the Zoning Ordinance with regard to the applicant's request for the changed lot configuration. Accordingly, Commissioner McKitterick said he supports the application with the two alternatives proposed, but wanted to make it clear that his supporting vote has nothing to do with 900 Portola Road or any other property. He said if a proposal comes forward for anything that he considers inconsistent with the General Plan, he would vote against it. He also pledged to listen to the public on both sides of this issue.

Vice Chair Zaffaroni said when something comes before the Planning Commission, the Commission would follow and diligently respect the applicable General Plan provisions and relevant zoning ordinances, etc. in open and transparent discussions. There is no project before the Commission now, she said, and it would be speculative to address such important issues as traffic, aesthetic impacts, density, etc. at this time. She said she appreciated the process tonight, in part because she is grateful for the public input and has learned from it.

At this point, Vice Chair Zaffaroni said the issue before the Planning Commission is much narrower than a proposed project. She said that Alternatives 1 and 2 seem to make sense, in consideration of confirmation from Ms. Sloan, Mr. Vlasic and Commissioner McIntosh that this is the way it should be structured. She also said it has been confirmed to her satisfaction that the sale of the Blue Oaks lots needs to happen at this time.

Commissioner McIntosh said that in his opinion, it's best to solicit as many BMR developers as possible, but if staff finds one or more interested in pursuing a BMR project, the first thing to do would be to engage the neighbors and bring them in to look at the proposals and go forth from there – just as would happen with any other proposal. In response to a comment from Commissioner McKitterick, Commissioner McIntosh said that BMR developers are quite accustomed to working with the communities in which they make proposals.

Chair Von Feldt said her comments would be brief because fellow Commissioners have spoken well. She said she supports the staff recommendation because it provides the flexibility to find the right solution, depending on the buyer. She said she also is satisfied that if a proposal for 900 Portola Road emerges, it would go through the Planning Commission process, which can be quite rigorous for an applicant. She said she's glad to see the Town moving forward with this because it's the responsible thing and the right thing to do, and it would help the Town maintain some control over its own destiny.

In regard to the issue of openness and transparency, she said all Commissioners take those comments to heart because they are Town residents and neighbors as well as volunteers in public service. She noted that there will be openings soon on both the ASCC and the Planning Commission, with applications due on November 9, 2012.

Commissioner McKitterick moved to find the proposed PUD amendment categorically exempt from CEQA pursuant to Section 15305, minor alterations to land-use limitations, and to approve *Alternatives 1 and 2, with the alternative actually to be implemented based on the final purchase agreement for sale of the lots as needed to allow the Town Council to complete actions consistent with the provisions of the state-certified Housing Element. If the HOA doesn't acquire both lots, the building-envelope question and height issue would go to the

ASCC for final resolution. (*Commissioner McKitterick corrected his motion to say “Alternatives 1 and 2” instead of his original “Alternatives A and B” and added the last sentence as suggested by Mr. Vlastic.) Seconded by Commissioner McIntosh, the motion carried 4-0. Vice Chair Zaffaroni added that because this motion involved the PUD amendment, it would be appropriate to indicate that the amendment is in accord with Zoning Ordinance Section 18.72.130 and incorporate by reference the findings on pages 2-3 of the November 1, 2012 staff report. Chair Von Feldt took a vote on the motion as amended; it carried 4-0.

Commissioner McKitterick moved to find the proposed Lot Line Adjustment categorically exempt from CEQA pursuant to Section 15305, minor alterations to land-use limitations, and approve the lot line adjustments with the condition that the actual adjustment would correspond to the final form of the PUD amendments as completed with the purchase agreement for the sale of the Blue Oaks lots. Seconded by Commissioner McIntosh, the motion carried 4-0. Vice Chair Zaffaroni again said that the motion should incorporate the findings of the Town Planner’s report with respect to no impairments of easements, and that the end result will not be more parcels than currently are allowed on the lot and it’s not in any way a violation of the PUD or Zoning Ordinances. Commissioner McKitterick amended his motion accordingly. Commissioner McIntosh seconded, and the amended motion carried 4-0.

Referring to Mr. Vlastic’s earlier mention of the work of prior Planning Commissions and Town Planners about building on slopes near the San Andreas Fault, Mr. Eisberg said they followed an excellent process followed that’s lasted for a long time. (Former Town Planner) George Mader clearly explained what could and could not happen. It was an excellent public process. Mr. Eisberg also cited the development of Portola Valley Ranch, which the public did not initially welcome with open arms. That too was an excellent process, he said, but the one now underway has not been excellent so far. He said the General Plan and the Housing Element use a lexicon that most people don’t understand. Now that they know what BMR housing is, he said that BMR housing in Portola Valley is equal in importance to building on slopes and The Ranch. He encouraged the Planning Commission to adopt a policy of the nature of its predecessors, because going through the process incrementally rather than comprehensively makes it very difficult for the public to understand.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

None.

APPROVAL OF MINUTES

Commissioner McKitterick moved to approve the minutes of the October 17, 2012 Planning Commission meeting, as amended. Seconded by Commissioner McIntosh, the motion carried 4-0.

ADJOURNMENT [10:20 p.m.]

Alexandra Von Feldt, Chair

Tom Vlastic, Town Planner