PLANNING COMMISSION MEETING, TOWN OF PORTOLA VALLEY, JANUARY 16, 2013, SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chair Von Feldt called the Planning Commission regular meeting to order at 7:33 p.m. and asked Mr. Padovan to call the roll:

Present: Commissioners Denise Gilbert, Arthur McIntosh (arrived at 7:35 p.m.), Nate McKitterick and Nicholas Targ; Chair Alexandra Von Feldt

Absent: None

Staff Present: Tom Vlasic, Town Planner
Karen Kristiansson, Principal Planner
Steve Padovan, Interim Planning Manager
Ted Driscoll, Town Council Liaison

ORAL COMMUNICATIONS

Mr. Vlasic said substantial input on aesthetic aspects of the Priory proposal came out of a very good ASCC meeting on January 14, 2013, but the continued public hearing would not be scheduled for the February 6, 2013 Planning Commission meeting to ensure enough time for the public to review materials that are still being prepared. The February 20, 2013 meeting won't work, either, because several Planning Commissioners cannot attend and there wouldn't be a quorum. With the next two Wednesdays also ruled out (with a joint Planning Commission/Town Council meeting on February 13 2013, and a Town Council meeting on February 27, 2013), Mr. Vlasic said he'd explore the possibility of continuing The Priory's public hearing at a Special Planning Commission meeting on either Tuesday, February 26 or Thursday, February 28, 2013, or else at the regular meeting on March 6, 2013.

REGULAR AGENDA

(1) Zoning Ordinance Reorganization Update: Residential Districts and Uses

Ms. Kristiansson noted that at its October 17, 2012 meeting, the Planning Commission looked at reorganization of the sections on the residential districts and uses, and tonight's discussion would focus more on text changes to clarify the language. Although the purpose of the zoning project is more organizational than substantive, she explained, some substantitive changes may be necessary to improve clarity or to update/remove information that no longer applies.

The staff report of January 10, 2013 lists six such substantive changes, she said, and identifies three items that need further discussion.

According to Ms. Kristiansson, errors were likely responsible for the omission of two uses from the M-R (Mountain Residential) District that are included in R-E (Residential Estate) and R-1 (Single-Family Residential) Districts – publicly owned park areas (conditionally permitted) and private swimming pools, cabañas, tennis courts and similar recreation facilities (allowed accessory uses).

Ms. Kristiansson's explanation of how these mistakes probably crept in underscores the problem with the Zoning Ordinance when it references other sections only by a section and a letter and/or number without specific language. If a change in one section affects another, and the revision to the affected section is overlooked, the oversight perpetuates itself over time. He said, too, that typographical errors in coding – mistakes in letters or numbers – apparently were made and not recognized because no text tied in with the codes.

As a result, the reorganization effort is requiring staff to go back to the original ordinances to determine where such problems may exist.

Ms. Kristiansson cited an error on the Permitted and Conditional Uses in Residential Zoning Districts table in the staff report (page 4). In the last row, the Uses Permitted by Section 18.36.020 should have a "C" for conditionally permitted in all three residential zoning districts (R-E, R-1 and M-R).

Mr. Vlasic revisited a discussion from the October 17, 2012 Planning Commission about the idea of having a Commission subcommittee work on the Zoning Ordinance reorganization, ferreting out issues that warrant the full Planning Commission's attention. Concerned that it could take a year's worth of Planning Commission meetings to get through the process otherwise, he said that the subcommittee approach would be a way to streamline it.

Commissioner McKitterick asked whether the subcommittee would primarily work on non-substantive verbiage changes. Mr. Vlasic said yes, and it also would determine which discussions all Commissioners should weigh in on. He said that would be more efficient in terms of the Commission's time as well.

As an example, Chair Von Feldt asked whether the subcommittee might have agreed on changes to correct the omissions from the M-R District that Ms. Kristiansson mentioned earlier, while the three issues she (Kristiansson) cited as needing additional discussion would have gone to the full Planning Commission. Mr. Vlasic said yes.

Commissioner Targ asked whether everything that the subcommittee would address – basically an initial cull – would ultimately come to the Planning Commission anyway for review and approval. Mr. Vlasic said yes. Another advantage would be that subcommittee members could report efficiently what they did without having to write up their proceedings in great detail.

Commissioner Gilbert asked about the timeframe. Mr. Vlasic said he'd hope a subcommittee would take on larger chunks than what the Planning Commission would do collectively in a meeting, and do it in such a way that they could work on the Zoning Ordinance in maybe two long sessions, approximately one month apart, and then see how much remains to be done.

In response to Commissioner McKitterick, Mr. Vlasic said in-person meetings would be preferable, possibly with supplemental emails and/or teleconferences. Ms. Kristiansson said email probably would be helpful in weeding out items that didn't merit in-person discussion time.

With Commissioners agreeing upon the subcommittee approach, Chair Von Feldt asked who would be willing to serve. Commissioner Gilbert said she'd have to check, but she believes she could do it. Commissioner McKitterick said he'd be happy to do it.

Chair Von Feldt suggested an approach for tonight that she hoped would result in resolution on the six items Ms. Kristiansson included as substantive changes, and possibly some alignment on the three issues that she earmarked for more detailed discussion.

Chair Von Feldt said she would have to recuse herself when the discussion comes to one of the topics on the three-item list: farming, horticulture, nurseries, sale of agricultural products and cattle grazing.

She explained that she works for Acterra, which has a plant nursery at Foothills Park in Palo Alto, but it's part of the subject property that Arrillaga is negotiating with the City of Palo Alto to lease, so it might need a new home – which possibly could be the Hawthorne/Woods estate that is now part of the Midpeninsula Regional Open Space District (MROSD) property.

Chair Von Feldt asked whether there were any questions about the six substantive changes included in the staff report. In response to Commissioner McKitterick, Mr. Vlasic said he had a map of the residential zoning districts. Ms. Kristiansson said most of the developed areas in Town are in the R-E (Residential Estate) District, with some exceptions. The exceptions are the commercial areas, the Nathhorst Triangle, Brookside Park, Wyndham Drive and part of Woodside Highlands. The upper western hillsides are in the MR District. In response to Commissioner Gilbert, Mr. Vlasic said Portola Valley Ranch is a PUD (Planned Unit Development) and zoned PC (Planned Community).

Mr. Vlasic explained that within the R-E District there are overlays – 1 acre, 2 acres, 3.5 acres, for example. These "modifiers" indicate basic density provisions, he explained. Each district now requires the design review provisions, and some overlays also include slope-density provisions. The Ranch, in particular, he said, has a PC zoning overlay, as well as the 2-acre basic density.

The Commission turned to the six items noted in the staff report as substantive changes.

Small family day care

Commissioner Gilbert said she agrees conceptually with the staff recommendation, but pointed out an overlap in definitions. She noted that a small family day care can accommodate up to eight children, while a large family day care starts at seven children. Ms. Kristiansson said definitions in the Zoning Ordinance would address that matter, but the state-issued license would determine whether the facility would be permitted. Small family day care would be allowed in R-E Districts, but not in R-1 and M-R Districts.

Commissioners concurred with staff's recommendation to add small family day care to the first item listed under permitted uses in all three residential zoning districts.

Rental of a single room or providing table board

Commissioner Gilbert asked why a jurisdiction can't regulate rental of a single room. Ms. Kristiansson explained that in light of definitions of "household" and the fact that state law requires treatment of residential care facilities, supportive housing and transitional housing for six or fewer persons as single-family homes, it would be difficult to regulate renting a room and providing table board for "one paying guest."

Commissioner McKitterick reported the experience of a former neighbor who started renting rooms in his home, which resulted in parking and noise problems. Had there been complaints, he said the Town could have enforced whatever ordinances were being violated. Discussion ensued on what constitutes a household and what defines a second unit. Mr. Vlasic said that if noise and parking were identified as problems, those would be the issues to focus on. Ms. Kristiansson said that multiple rented rooms would not have been allowed in the past, although it's no longer clear-cut with current definitions of household.

In response to Commissioner Gilbert, Mr. Padovan said a room would not qualify as a second unit without a separate kitchen.

Ms. Kristiansson said that in any case, she would recommend deleting language from the Zoning Ordinance: stating that permitting room and table board "shall not be construed as authorizing the establishment of any rest home, convalescent home, boarding home, or any other institution of a type which requires any state or local license, nor any other operation which tends to change the character of the property involved or of the neighborhood." She said that is dealt with separately in another part of the ordinance.

Commissioner McKitterick agreed with her proposal to remove that language but keep the reference to a single room. As an alternative, Ms. Kristiansson suggested recasting the first sentence to read: "The renting of rooms and/or the providing of board in a dwelling as an incidental use to its occupancy as a dwelling, provided that not more than one paying guest is accommodated and the use does not change the character of the property involved or of the neighborhood."

Commissioner McIntosh said that Commissioner McKitterick's concern could be addressed by not allowing it on small lots.

Mr. Vlasic said he'd want to consult the Town Attorney, because a small lot zoning district could easily have a 2,500 to 3,000 square foot house that could easily accommodate boarders when children go off to college, etc.

Commissioner McKitterick said that he wasn't aiming to make a new rule or change the rule, but just clarify it.

Commissioner McIntosh stated that there needs to be language to catch someone that stays over. He also asked about the first sentence of the code section and the terms "and/or". Ms. Kristiansson stated that the current code does include the "and/or" language.

Mr. Padovan said the language in the current ordinance sounds as if it addresses bed-and-breakfast operations.

Ms. Kristiansson said it sounds as if someone could just provide board. Commissioner Gilbert suggested the following language, "…the renting of rooms or providing room and board….." The Commission agreed.

Publicly owned park areas and the M-R District

Commissioners agreed with staff's recommendation.

Commissioner McIntosh asked about the word "intentional" and Ms. Kristiansson stated that the word should read "unintentional".

Mr. Vlasic raised a related issue. MROSD owns the Hawthornes/Woods property, he said, but this property is not identified in the General Plan, nor is it shown on the General Plan Map for open space or recreation use. If MROSD decides to keep the property and pursue it for open-space use, he said, the General Plan probably would need revisiting.

Originally, he continued, publicly owned recreation and open-space areas was a principal use in R-E and M-R Districts. When Windy Hill – which extends into the M-R District – came in as open space, the Town decided it was necessary to regulate the use with a use permit. Working with MROSD, Mr. Vlasic explained, the Town also modified the ordinance to identify Windy Hill in the General Plan and to allow the open space there as a conditional use.

When Commissioner McIntosh suggested simply identifying the Hawthornes/Woods property on the Zoning Map, Mr. Vlasic said the General Plan would have to change as well – either to indicate public open space as an alternative use to the residential use shown currently or specifically identify it for open-space use.

In response to Commissioner Targ, Mr. Vlasic said it would be either a General Plan Map or General Plan text amendment – or both.

Private recreation facilities and M-R District

Commissioners concurred with staff recommendations.

Landscaping and related uses in R-1 district attendant to uses in the C-C District

Commissioners concurred with staff recommendations.

Group living for senior citizens

Commissioner Gilbert said the current language is awkward, making it sound as if the intent is to prevent someone from having a very large facility – not necessarily related to age of residents but the number of residents. She thought perhaps the entire passage could be stricken.

Commissioner McKitterick said that he believes it has to stay because it reflects state law.

Ms. Kristiansson said this suggestion came from the Town Attorney, who was concerned that limiting it in the way the current language does may appear to be age discrimination.

Commissioner Gilbert said the Town wouldn't want unlimited housing for anyone. She said she could see a reason to cap the size of any facility. Chair Von Feldt agreed, but didn't know what the number should be, but perhaps something like "special consideration for very high-density development."

Commissioner McKitterick said it might be changed to “group living accommodations” without reference to any particular group.

Commissioner McIntosh said it was to address zoning for The Sequoias.

Ms. Kristiansson said that generic “group living accommodations” might open the door to student-housing developments.

Mr. Vlasic agreed, adding that the term “senior” would have to remain. He said he believes the intent of the language was to recognize something like The Sequoias but as a facility serving the needs of the community as residents age. Thus, he said, there’s a “distinctive flavor” to the way it was worded and why it was added to the Zoning Ordinance. The other language was to minimize the number of these the Town might have.

Commissioner Gilbert asked what control the Town has over the size of a facility for seniors. Ms. Kristiansson said it would be defined in the Conditional Use Permit (CUP) findings. She explained that the General Plan contains language about uses primarily serving the Town, and the CUP findings include conformity with the General Plan.

Commissioner McKitterick said he concurs with staff’s recommendation.

Mr. Vlasic said intensity of use would have to be consistent with the underlying zoning. Thus, the number of units would be restricted unless the Planning Commission made a finding through the CUP to allow greater density.

In response to Mr. Padovan’s comment about common kitchens serving multiple residents in such facilities, Mr. Vlasic said that the General Plan would address the population density as well.

Commissioner Gilbert said she agreed with staff’s recommendation.

The discussion moved to items that the staff report described as more complex issues that needed further discussion.

Large family day cares

As the staff report indicated, among the options the Planning Commission could consider for large family day cares:

1. Like nursery schools and day care centers, allow large family day cares in the R-E District with a CUP when the facility is located on an arterial or expressway. This is the most restrictive option.

2. Allow large family day cares as a conditional use in the R-E District as a whole, rather than only along an arterial or expressway. This is the option shown in the proposed zoning ordinance.

3. Allow large family day cares in the R-E District with a zoning permit rather than a conditional use permit. This is the least restrictive option.

Commissioner McKitterick asked about the difference between getting a zoning permit versus a CUP.

Ms. Kristiansson said that with a zoning permit, the use is permitted by right whereas a CUP would require a noticed public hearing.

Mr. Vlasic said that zoning permits are typically issued, for example, for an office use within an office building that’s authorized by a CUP. That CUP may not identify a specific office use, but it sets the standards that any use going into the building must meet. If the large family day care is handled with zoning permits, he said the Town would still want a defined set of standards that spells out intensity, describes uses, etc., so there’s something to judge conformity against.

Mr. Vlasic suggested the CUP approach so that any neighbors with concerns have an opportunity to speak up.

In response to Chair Von Feldt, Ms. Kristiansson said only Portola Road, Alpine Road and Skyline Boulevard are defined as arterials.

Commissioner Gilbert stated she is fine with requiring a CUP process but questioned allowing large family day care uses only on arterials.

Commissioner McKitterick said the Town seems to need more day care facilities, but it's appropriate for neighbors to be aware if someone next door in the R-E District would be caring for 14 children.

Commissioner McIntosh also agreed that neighbors should be notified. He further asked about the options listed under state law. Ms. Kristiansson said state law gives jurisdictions three choices when it comes to large family day care facilities. The Town can: 1) treat them as permitted uses, 2) require non-discretionary permits (such as a zoning permit), or 3) require a CUP.

Mr. Vlasic said that because these facilities would be commercial operations of some form, they would be ruled out in a significant portion of the Town in any case. He noted that the Westridge Covenants, Conditions and Restrictions (CC&Rs) prohibit commercial uses.

Commissioners concurred on staff recommended Option 2, which is require a CUP in the R-E district as a whole.

Pets and Domestic Animals

Commissioner Gilbert asked whether San Mateo County has restrictions pertaining to numbers and kinds of pets. Mr. Padovan said that while the County has restrictions, those do not apply to the Town as the Town did not adopt those regulations. He researched roosters recently, and although the County regulations might prohibit them, the Town code does not and he found no other indications in the code that specifically prohibits them. Mr. Vlasic concurred.

As the staff report points out, nothing in Chapter 6 or in the current Zoning Ordinance defines pets or domestic animals or restricts the number or type that can be kept, although the Animal Control section defines and regulates wolf hybrids and dangerous animals. The Portola Valley Municipal Code's only other reference to animals relates to noise control (barking dogs, crowing roosters, etc.) in Section 9.10.060.

In response to questions from Commissioners on dog breeding, Mr. Padovan said that breeding would be considered a commercial operation and those regulations would apply. Commissioner Gilbert asked if a Home Occupation permit would allow it. Mr. Vlasic said he doesn't think anything in the ordinance prohibits people from breeding dogs.

Mr. Padovan also indicated that the Town requires horse-keeping permits and annual dog licensing.

Mr. Vlasic said that staff can do further research on the topic, talk with the Town Attorney, and bring the issue back to the Commission.

The current ordinance lists "household pets and domestic animals permitted by Town ordinances" as an accessory use in all residential districts, and because there is no reference in the ordinances as to what those animals are, staff recommends deleting the "permitted by Town ordinances" phrase. Commissioners concurred.

Proposed Ordinance Changes

Before moving into the third item, the Commission turned its attention to the Zoning Ordinance changes proposed for Chapter 18.10 – Residential Districts: Establishment and Uses. They went page by page through the staff report attachment.

Page 1: The R-1 Single-Family Residential District definition (B) includes the phrase "rural-urban family living." Commissioner McKitterick questioned the term "rural-urban." Commissioner McIntosh said that "rural and suburban" is much more accurate.

Page 2: In the Permitted and Conditional Uses in Residential Zoning Districts table, Commissioner Gilbert asked for an example of "other public building when located in conformance with the General Plan" (row 3), which is not allowed in either R-1 or M-R Districts. Mr. Padovan gave an example of a fire station and said that it would have to be indicated in the General Plan for it to be permitted in the R-E District. The library would be another example. Ms. Kristiansson explained that the current Zoning Ordinance indicates that the R-1 District allows "public schools," whereas the R-E District allows "other public building." She recommended changing the language to "public building other than a school" as a permitted use in the R-E District. Commissioner McIntosh said it should be "buildings" rather than "building."

Pages 2-3: Commissioner Gilbert said she also had questions about items related to tree farming and nurseries, but she would hold them until later in the meeting.

Page 3: Commissioner Targ called attention to one of the uses listed in the first row (Item 6) – "nursery schools and day care centers." He asked whether it should specify "large family day care centers." Ms. Kristiansson said definitions would address this issue. A "day care center" is a commercial establishment whereas the "large family day care" is home-based. A day care center would be located in a dedicated separate building. A large family day care would be located within a home. Ms. Kristiansson stated that the different use types will be clarified in the definition section.

Page 4: Chair Von Feldt confirmed that uses permitted by Section 18.36.020 (last row in the Permitted and Conditional Uses table) should have "C" (conditional use) codes for all three residential districts.

Page 5: In Accessory Uses in Residential Zoning Districts (B), Chair Von Feldt confirmed that Commissioners concurred on the handling of the item related to room and board. Instead of taking this item out, it will be changed as discussed.

Page 6: In Section 18.10.040 – Second units (from Section 18.12.040.B), Item 6 says that second units "created within the first floor of an existing home, or including an addition "or" 400 square feet or less . . .the "or 400" should be "of 400".

Page 6: Item 7 currently refers to the definition of dwelling unit "in Section 18.04.150." Ms. Kristiansson suggested using "in this Title" rather than identifying the section number, in case it changes sometime in the future. She suggested a similar change for Item 8, substituting "in this Title" for "in Section 18.60." She said she recommends making such changes in as many places as possible. Commissioner Gilbert noted that such changes would make it more difficult for residents because they wouldn't know where to look. Because the Municipal Code is searchable online, Commissioner McKitterick said they could search for "dwelling unit."

Chair Von Feldt asked if the reference to Section 18.54.020 in Item 10 should also change, and Commissioner Targ said that there is a consistency issue here. Ms. Kristiansson said she's trying to provide enough specificity for users while avoiding the problem of overlooking changes from one section to another, and perhaps the subject requires more thought. Commissioner Gilbert pointed out that in some cases, the references are broader – to chapters in the title rather than sections and subsections – where changes are less likely. Ms. Kristiansson said that perhaps the solution would be to change the section/subsection references to chapter references, rather than "in this Title." The Commission generally agreed.

Commissioner McIntosh said that Item 10 is confusing, in that it says a second unit cannot "exceed a height of 18 feet with a maximum height of 24 feet." Mr. Vlasic said the height definitions in the Zoning Ordinance include two numbers to address issues with hillside properties. The first is any point above the existing grade of the property, and the second from the lowest point of the finished grade low point to the highest ridge of the building. He explained that this is to ensure that a house that doesn't step up the hill at 28 feet and appear to be 50 to 60 feet tall when you look at it across a valley. He noted that the Hayfields area has some very high houses that were built before these regulations were in place. Ultimately, the Town determined that without ASCC approval

for a second unit, a dwelling must be limited to the single-story height maximum. The 18/24-foot single-story height limit, he added, provides for floor-area bonuses.

Ms. Kristiansson noted that Mr. Vlasic's explanation is covered in the definitions, but the plan for the revised Zoning Code is to include pictures to help clarify.

Page 7: Item 14 reads, "Landscape plantings shall be selected from the town's list of approved native plants and shall adhere to the Town's landscaping guidelines." Chair Von Feldt said the implication is that all plantings must be native, and the landscaping guidelines do not require it. Although ASCC reviews landscape plans, she said, most plantings aren't native except at The Ranch.

Mr. Vlasic said the Town's landscaping guidelines allow more flexibility close to the house, but they encourage more native plantings away from the house. Ms. Kristiansson said this language pertains specifically to second units, so it may be different. Commissioner McIntosh, observing that this may apply to second units that are added after the primary dwelling was built, asked why it would be any different for second units. Commissioner Targ said Chair Von Feldt made a good point; the language seems very restrictive. Commissioner McKitterick noted the irony in that the Town is trying to be more lenient as regards second units. To avoid the ambiguity, Ms. Kristiansson suggested the language might be changed to read, "Landscape plantings shall adhere to the Town's landscaping guidelines," removing the reference to the Town's list of approved native plants. Commissioner McKitterick agreed with her suggestion. Mr. Vlasic said the landscaping guidelines contain the list of approved native plants in any case.

In response to Commissioner Targ, Mr. Vlasic said the guidelines are developed through the ASCC or Conservation Committee, and then approved by the Town Council. They are not regulated by ordinance specifically, but basically by Town Council action. Commissioner Targ said that because the guidelines are not created by ordinance and thus can change without ordinance amendment, including them by reference creates a consistency issue. Mr. Vlasic noted that the Zoning Ordinance contains other references to policies that are adopted by resolution and can be changed by resolution. He cited the Town's geologic policies as an example. He also pointed out that the Town Attorney has been fine with that approach.

Commissioners concurred with Ms. Kristiansson's suggestion to strike Item 14's reference to the Town's list of approved native plants and change the wording to, "Landscape plantings shall adhere to the Town's landscaping guidelines".

Page 8: Commissioner Gilbert questioned Item 9's implication that surgeons may be operating out of their homes. Commissioner McKitterick pointed out that the item also specifically says the practice must be "subordinate to the use of an office located elsewhere" and must be "of such restricted nature as to involve only occasional visits by patients."

Chair Von Feldt asked why "car repair business" was added to Item 10. Mr. Padovan said the Town had no other regulations preventing residents from operating a car repair businesses out of their homes and garages, and Ms. Kristiansson said this has been a problem in other jurisdictions and it is standard to prohibit home-based car repair occupations.

The Commissioner's had no changes to the Emergency Shelter regulations.

<u>Farming, horticulture, nurseries, sale of agricultural products and cattle grazing</u>

Prior to Chair Von Feldt recusing herself on the last item of discussion, Commissioner Targ disclosed that he has a CUP on his property that includes all sorts of agricultural, horticultural and aquaculture uses. He was not planning on recusing himself because the use permit is in place, but he still wanted to disclose the information. Commissioner McIntosh said the Commission could use his (Targ's) input. Chair Von Feldt then asked if Commissioner Zaffaroni had submitted any changes to the minutes. Mr. Padovan stated that he had not received any corrections. Chair Von Feldt recused herself and handed the gavel to Commissioner McKitterick.

Councilmember Driscoll spoke from the audience stating that although tonight's meeting does not involve any formal Commission action, he advised that in the future, it would be a good idea to discuss any potential conflict

of interest issues with the Town Attorney in the interest of keeping things "squeaky clean." Commissioner Targ stated that he would talk with the Town Attorney.

The Commission turned to the last of the three items Ms. Kristiansson had identified as needing further discussion.

Commissioner McKitterick said the default position should be just transferring existing language in the Zoning Ordinance without changing it, unless something seems obvious.

Commissioner Gilbert asked what "truck gardening" means. Ms. Kristiansson said the dictionary defines it as "the raising of vegetables for market." She said that it's difficult to know the difference between "truck gardening" and some of the other uses in the ordinance because the definitions seem to overlap. By definition, Commissioner Gilbert said, "truck gardening" products would not be sold on the premises. Ms. Kristiansson agreed, adding that the accessory use allows selling "agricultural products grown on the premises, provided that no building or structure is maintained specifically for such purposes" in all three residential districts.

But then, she added, there are other conditional uses. Commissioner Gilbert pointed out the verbage there – "agricultural products" with no definition – is quite broad. Ms. Kristiansson said an "agricultural products" definition would be added. Commissioner Gilbert asked whether flowers and houseplants count as agricultural products. Mr. Padovan said if they're being grown for one's own use on their property and aren't propagated for sale, there wouldn't be an issue. Commissioner Gilbert disagreed, pointing out that the language indicates they can be sold provided there isn't a building or structure maintained specifically for that purpose.

Regardless of whether they are sold, Commissioner Gilbert asked if flowers and houseplants are considered agricultural products. When she thinks of agricultural products, she said she thinks of things grown for food. Mr. Padovan said that anything grown or raised is basically an agricultural product, including animals.

Commissioner McKitterick noted one of the question posed in the staff report concerned whether a CUP would be appropriate for someone who wanted to build a small greenhouse as an accessory structure to grow orchids as a hobby. He said if someone can build a greenhouse according to accessory structure regulations, including obtaining any permits required due to size, for example, it wouldn't matter whether the structure would be used to store a baseball collection or to grow orchids. Commissioner Gilbert said they'd need a stipulation that they're not producing things in the greenhouse for sale and maintaining the structure for that purpose.

Ms. Kristiansson said the accessory use provisions need to be clearer about the structure being maintained specifically for "such purposes." Would "such purposes" be for growing the products or selling the products – or both? She said she inferred it to mean a structure for selling products. Commissioner McKitterick said he read it that way also.

Commissioner Targ said that he'd recommend clarifying it, so that instead of saying "such purposes," it says specifically "the sale of."

Commissioner Gilbert cited language in the staff report: (page 6, point 1) concerning a proposed change to the Zoning Ordinance so that it continues to allow as an accessory use "the sale of agricultural products grown on the premises, provided that no building or structure is maintained specifically for such purposes." She suggested changing the "for such purposes." Ms. Kristiansson suggested "specifically for selling the product" as an alternative.

Commissioner Targ also suggested considering adding "specifically" for that purpose, because the structure could possibly be used as a playhouse.

Commissioner Gilbert asked whether a greenhouse as an accessory structure would require ASCC review. Mr. Padovan said ASCC review would depend on whether it encompassed more than 400 square feet, and a building permit would be required if it was more than 120 square feet. Ms. Kristiansson said floor-area limitations also would limit the size.

Commissioner McKitterick said that he would be inclined to leave it up to staff to suggest a definition for horticulture, but it would be a good idea to distinguish between commercial and non-commercial uses.

Commissioner Gilbert said she thought we were trying to eliminate the use of the word "horticulture" because it was already covered by "agriculture." Ms. Kristiansson said yes. According to the dictionary definition, she said it's so broad as to be unhelpful – "the science and art of growing fruits, vegetables, flowers, ornamental plants." According to that definition, planting daisies in the front yard is horticulture.

Commissioner Targ asked whether Ms. Kristiansson had reviewed ordinances in other communities for their treatment of this issue. Commissioner Gilbert added that she felt that agricultural products related to edible products only.

Ms. Kristiansson said the key concerns are the scale of the operations, whether onsite retail sales generate additional traffic or large-scale operations that involve deliveries to farmer's markets, etc. No one wants to limit the ability of property owners to grow food on their property for their own use.

Commissioner McIntosh said one could look at the Jelich Ranch for the last 100 years, selling apples. Commissioner McKitterick pointed out that it's currently allowed. Ms. Kristiansson said the property presumably had a CUP, unless it was counted as an accessory use.

Commissioner McKitterick asked whether Ms. Kristiansson wanted to propose something and bring it back for discussion at the next meeting. Ms. Kristiansson said the staff report includes five proposals (pages 6-7), which also are incorporated into the Permitted and Conditional Uses in Residential Zoning Districts table (pages 2-4) and the Accessory Uses in Residential Zoning Districts (pages 4-5).

On point 1 (page 6), Mr. Padovan confirmed the language would change from "for such purposes" to "specifically for the sale of products".

Commissioner Targ started the discussion on page 2 of the tables. Ms. Kristiansson said that point 2 pertains to clarifying the language from "Crop and tree farming and truck gardening, including sale of products grown exclusively on the premises" to "Gardening operations including growing items to sell off the premises" and adding, "Sale of products grown on the premises would also be allowed."

Commissioner Gilbert said she'd thought the proposed change would allow something that currently is not allowed, because she had interpreted "agriculture" more narrowly to include crops and livestock but exclude flowers and houseplants.

Commissioner McKitterick said he doesn't like using the word "gardening," because it has a different connotation than "crop farming." Ms. Kristiansson asked whether "agricultural operations" would work. Commissioner Targ thought it would work if it's specifically defined – such as "growing items to sell off the premises." Commissioner McKitterick agreed with Commissioner Targ.

So, Commissioner Targ summarized, point 2 would read "Agricultural operations, including growing plants to sell off the premises. Onsite sale of products grown exclusively on the premises would also be allowed, provided that no building or structure is maintained specifically for the sale of such products." This would also apply to the item in the Permitted and Conditional Uses table (page 2).

Commissioner Gilbert asked whether this activity would be prohibited in R-1 Districts. Ms. Kristiansson said the current Zoning Ordinance does not allow crop and tree farming or truck gardening operations in R-1 Districts; but they're conditionally permitted uses in R-E and M-R Districts. You can have an orange tree, for instance, she said, but not sell oranges off the property or from a specific structure. The Accessory Use table (page 5) allows "the sale of agricultural products grown on the premises, provided that no building or structure is maintained specifically for such purposes" in all three residential districts.

If it's confusing, Ms. Kristiansson said. She suggested perhaps striking the second sentence from the Permitted and Conditional Uses table.

Mr. Padovan pointed out that the permitted and conditional uses relate to *primary* uses of a property, so if a resident has an orange tree in the yard, selling oranges wouldn't be the primary use of the property. With a CUP, the primary use could be growing oranges for sale.

As Commissioner Targ understands it, growing plants to sell off premises is conditional, not permitted but conditional; however, onsite sale of products grown exclusively on the premises would be permitted." Commissioner Gilbert said she didn't know that the "however" was appropriate, because the CUP would be needed to sell it onsite as well. Commissioner Targ asked whether the second sentence was intended to address situations of growing items on the same parcel for both home consumption and off-site sale.

Ms. Kristiansson said the Town would look at growing of plants as a whole. She explained that she was trying to get away from situations in which a resident came in and said that part of the property would be used to grow things to sell off the premises, but another part would be accessory use growing. She said it seemed to make sense to say it's a conditional use if any products are being grown to sell off the premises – even though part of it is allowed as an accessory use.

Commissioner Targ said he can imagine having property where certain areas are meant to grow items for home use and other areas for commercial use. Such situations could present enforcement issues.

Ms. Kristiansson said she's trying to make it easier for applicants to look at it as a whole.

Commissioner McIntosh raised the issue of vineyards. Commissioner McKitterick suggested leaving that part as it is and table that discussion for publicly noticed hearings, because it's a significant issue all over Town.

Commissioner Gilbert noted that the Permitted and Conditional Uses table (page 3) indicates that "wineries" include all or any combination of four different activities plus winery buildings and related structures. She noted that the list does not include the selling of grapes. Mr. Padovan said that if someone is only growing and selling grapes, it's not a winery.

Ms. Kristiansson said that theoretically it would be, according to this list.

Mr. Padovan said it's a combination of the items, so there must be at least two of the items on the list. Commissioner McKitterick said that's confusing, if any one of the items on the list constitutes a winery. He suggested it would be clearer to say, "Wineries, which include a combination of the following . . ."

Commissioner Targ pointed out that a winery need not be connected with growing grapes. Commissioner Gilbert said that "combination" means at least two. Commissioner McKitterick said that growing grapes is not a winery. He suggested keeping it as is for now.

Commissioner McIntosh asked whether a CUP is needed to just grow grapes. Mr. Padovan stated that growing grapes would be permitted in the R-E and M-R districts.

As much as he'd like to clear it up, Commissioner McKitterick said he's reluctant to change anything pertaining to vineyards without public input. Ms. Kristiansson said that's why no changes have been proposed.

Mr. Padovan said that a vineyard (growing of grapes) would be considered a crop, which require a CUP if it's a primary use. Commissioner McIntosh said that anyone growing grapes as an accessory use is selling them. Commissioner McKitterick said some people grow grapes to make wine just for themselves. Commissioner Gilbert asked whether the grape operation at The Ranch, which sells shares to homeowners in the development, has a CUP. Commissioner McKitterick said he wasn't aware of that. In response to Mr. Padovan, Commissioner Gilbert said the grapes grow on about one-quarter acre.

Commissioner Gilbert had another question about one of the uses conditionally allowed in the R-E and M-R Districts but not in the R-1 District (staff report page 5): She suggested that greenhouses be allowed if they are not used to produce anything for sale. Commissioner McKitterick raised the issue of whether greenhouses would be subject to all other limitations for accessory structures.

Ms. Kristiansson asked whether Commissioner Gilbert was suggesting that greenhouses should only grow plants that would not be sold on the premises. Commissioner Gilbert said no, her question is what is currently allowed regarding greenhouses. Ms. Kristiansson explained that greenhouses were referred to only in the context of conditionally permitted uses, not accessory structures. She said that if greenhouses were put in as accessory uses, it could come off the list of conditionally permitted uses. Commissioner Gilbert asked whether plants grown in a greenhouse as an accessory use could be sold. Ms. Kristiansson responded that under the current ordinance no retail sale would be allowed – unless you get a CUP. However, she pointed out that it doesn't specify sale either off the premises or onsite, nor does it address wholesale sales. Commissioner McIntosh said they should be able to grow plants and take them elsewhere for sale. Commissioner Targ said the CUP would allow that now.

In response to Commissioner McIntosh, Commissioner McKitterick said that if a greenhouse is allowed as an accessory use, it wouldn't require a CUP. Commissioner Targ said that the idea is to allow a small greenhouse for a resident's' own use and allow for the sale of a portion of the products produced in it. Mr. Padovan said that would get back to "the sale of agricultural products grown on the premises, provided that no building or structure is maintained specifically for such purposes" (point 1, page 6). Commissioner Targ said the differentiator is a matter of scale. Commissioner Gilbert said the greenhouse wouldn't count as one of those structures because people would not be allowed to come onto the premises to buy products grown there. Commissioner Targ stated that they didn't need to limit the greenhouse use because the sale on or off premises is covered elsewhere.

APPROVAL OF MINUTES

Commissioner McIntosh moved to approve the minutes of the December 5, 2012 Planning Commission meeting, as amended. Seconded by Commissioner Gilbert, the motion carried 3-0-1-1 (Targ abstained, Von Feldt absent).

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

None.

ADJOURNMENT [*9:27 p.m.*]

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Alexandra Von Feldt, Chair

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Tom Vlasic, Town Planner